

Q. And the same exhibit was referred to at Page 911, lines 3 to 7 or 8? I should say exhibits were referred to. The same exhibits were referred to? A. What line number was that?

Q. 3 to 8. [9272] A. Yes.

Q. And you find a very similar provision in Exhibit 71, Article XII, Page 15, do you not? If not similar, the same provision, the same words.

THE WITNESS: They appear to be the same.

Q. . . . When you were referring to the [9273] sales by Holtwood of electric energy to these companies, and particularly Metropolitan Edison Company at the bottom of Page 912 and the first nine lines of Page 913, were you speaking of sales in 1944 or in 1946? Or what period?

A. My study was for energy transfers in 1944 and it would necessarily have to relate to the sales made in 1944.

Q. Then I understand it your testimony at those pages relates to sales in 1944, isn't that right?

THE WITNESS: Well, the test period or the days that I selected were in 1944.

By MR. MYSE:

Q. Mr. Roland, you aren't talking about any test days here in 912 and 913; I am asking you what you were referring to at those pages. A. The statements that I made, that I made on those pages, was based on the studies that I made of the energy flows during the twenty days of 1944.

Q. Now, then, it must have been made, as I understand your direct testimony, you were there referring to sales under the contract identified as Exhibit 71, when you spoke of the sales by Holtwood to Metropolitan Edison Company, is that right? A. Yes.

[9274] Q. Now, actually there were no firm power sales to Metropolitan Edison Company under that contract, isn't

that true? A. Not during that time, the firm power sales were to Edison Light and Power Company.

Q. And there were no sales to Metropolitan Edison Company at all under that contract, isn't that right? A. I am confused now as to which contract we are talking about.

Q. Contract 71—Exhibit 71. A. There were no sales to Metropolitan Edison under that contract.

. . .

[9285] Q. Now, as I understand your testimony up to this point, at least, with respect to sales to the three Pennsylvania customers we have been talking about, that is Penn Power and Light Company, Philadelphia Electric Company and Metropolitan Edison, you say they are sales by Holtwood because Holtwood renders service, or supplies energy to those or delivers energy to these three customers and gets paid by these three customers directly. Is that right?

. . .

THE WITNESS: You have the word paid directly in there. I don't believe I added that as a qualification.

. . .

[9291] Q. Mr. Roland, when you were referring to sales by Holtwood to the three customers we have been talking about, did you mean that there was a sale because there was a delivery of energy to each of those three customers and direct payment by each of these three customers to Holtwood? A. You are excluding the railroad. Is that correct?

Q. Yes, that is right. A. I don't know whether the payments were direct or not. Holtwood received payment therefor but whether or not they were direct, I don't know.

Q. Then the answer is, you don't know, isn't that it? A. Yes.

Q. Now, before we get too far away from the Metropolitan Edison Company, under the new contract, identified

in this record as Exhibit 72, there are no sales made to Edison Light and Power Company at all, are there? A. That is right.

Q. But all the firm power sales that there were under Exhibit 71 were made to Edison Light and Power Company. Isn't that right? [9292] A. Yes.

Q. Now, as a matter of fact, under Exhibit 71, Metropolitan Edison Company was one of the supplying companies. Isn't that right? A. Supplying companies to whom?

Q. To Edison Light and Power Company? A. Yes.

Q. And under exhibit 72, it is one of the receiving companies?

. . .

THE WITNESS: Metropolitan Edison Company is one of the receiving companies.

By MR. MYSE:

Q. Yes, under Exhibit 72. Isn't that right? A. That is right, yes.

Q. Under Exhibit 71, Metropolitan Edison Company and Holtwood and Safe Harbor furnished the requirements of Edison Light and Power Company at York. Isn't that right?

. . .

THE WITNESS: The requirements supplied by Penn Water came from the integrated system. I don't know where it all came from.

. . .

[9293] Q. Now, Mr. Roland, if you look at Exhibit 71, page 5, isn't it a fact that Section 1 thereof provides that the requirements shall be furnished by Metropolitan, meaning Metropolitan Edison Company, and Hydro, meaning Safe Harbor Corporation, Safe Harbor Water Power Corporation, and Penn Water and Power Company? A. Well, the contract may so state. I thought you were asking about who supplied the power and energy.

Q. Well, isn't that the fact? A. The contract so states, yes.

Q. Who makes the sale to Potomac Electric Power Company via the line from Ellicott City? A. Baltimore Company.

Q. Does Baltimore Company deliver the energy to PEPCO? A. No, Susquehanna Transmission Company of Maryland delivers the energy.

Q. Does Susquehanna Transmission Company of Maryland receive any payment direct or indirectly for that energy delivery? A. I don't know.

Q. Does Penn Water receive any payment direct or indirect for that energy delivered to PEPCO? A. Well, they are paid for the use of the transmission [9294] lines.

Q. Well, are they paid for the energy that Penn Water delivers? A. To PEPCO?

Q. Or Susquehanna, if you want to put it that way. A. Energy delivered to PEPCO?

Q. Yes. A. Does Penn Water receive any payment for that energy?

Q. Yes, directly or indirectly? A. I don't believe so.

[9295] Q. Where does that energy originate? A. I don't know.

Q. You have made no study to determine where the energy originates that is delivered to PEPCO, then? A. You mean by which particular generating unit, or what company, or what?

Q. Yes. A. Which?

Q. Which generating unit? A. I don't know.

MR. GOLDBERG: When?

THE WITNESS: That varies from hour to hour. I don't know where it comes from.

By MR. MYSE:

Q. Well, does it ever come from Safe Harbor, for instance? A. I suspect it would.

Q. Does Safe Harbor receive any compensation for the energy which Penn Water or Susquehanna delivers to PEPCO? A. Safe Harbor is only compensated by Penn Water and Baltimore Company and therefore it couldn't receive any from PEPCO.

. . .

[9296] Q. Yes, energy which is generated at Safe Harbor and delivered by Penn Water or Susquehanna or both to Pepco is what I have reference to. A. And is Safe Harbor compensated by Pepco?

Q. I didn't say that. Is it compensated in any way? A. Not for any particular deliveries at any particular point that I know of. Safe Harbor is compensated by the two companies, Holtwood and Consolidated, and that covers all of what it does.

Q. Would you call that indirect compensation for the delivery of Safe Harbor energy to Pepco? [9297] A. One of the sources of the revenue to Consolidated would be its sales to PEPCO, and in that way, it might be considered as an indirect source of the revenue paid by Consolidated to Safe Harbor just the same as any other source of revenue to Consolidated would be available for payment to Safe Harbor.

Q. Do I understand you to mean by that answer that the answer to my question is yes?

. . .

THE WITNESS: Yes, all sources of revenue to Consolidated and to Penn Water from their very many sources are available to compensate Safe Harbor, and in that sense they are indirect payments to Safe Harbor.

. . .

[9309] Mr. MYSE: Before I start with Mr. Roland, I direct a question to Mr. Goldberg. At page 8774, Mr. Goldberg said "I think, Mr. Examiner, there are probably more definite precise methods of proving that. If

you will give me an opportunity to check those dates I can go along on a stipulation of those."

The dates he referred to were the dates of the Safe Harbor license and the period over which it runs. I wonder if you had an opportunity to check those, Mr. Goldberg?

[9310] MR. GOLDBERG: The only information I have looked at indicates that the date of the Safe Harbor license is April 22, 1930, and that the expiration date is April 22, 1980.

MR. MYSE: That conforms with my recollection. Does that mean that you agree that is correct?

MR. GOLDBERG: Yes, unless I happen to get hold of the vault copy which I haven't seen yet which indicates otherwise.

By MR. MYSE:

[9311] Q. Do I understand then that you don't have time to report or you are not ready to report on this specific question, and the reason I ask that is because I had planned to go over your homework point-by-point and then integrate it with whatever remaining cross examination I had? A. I think possibly I can answer that one. This is at Page 8754, is that correct?

Q. That is where you agreed to check it, but it refers back to the answer on line 20, page 981. A. Well, my answer to your question is that at Page 981, lines 20 to 21 I had reference to my answer at Page 980, line 17, in which answer I stated that Holtwood and Susquehanna each own and operate facilities for such sales.

[9317] Q. Will you refer to Page 8785 at the bottom of the page and the top of Page 8786? There you said you would have to go back and check the sources that you used

in connection with your statement that there was a lease of the Gunpowder line facilities. Have you had an opportunity [9318] to check those sources? A. Yes, if you will refer to Exhibit 37 you will note in the description of the Gunpowder line shown directly above the area designated "Baltimore" the words "One steel tower line, 110 kv. three-phase, 60-cycle, 9.63 miles (leased by Consolidated Gas Electric Light and Power Company)."

Exhibit 37 is a photostatic copy of an exhibit submitted to the Federal Power Commission by the Pennsylvania Water and Power Company in its annual Power System Statement, FPC form number 12 for 1944.

. . .

[9331] By MR. MYSE:

Q. The question is, do you have to determine whether there is a contract before you can tell whether or not Penn Water sold to Pepco? A. There is a contract, but Holtwood was not a party to it.

Q. Well, now, let's see if I can understand your answer.

If you determine after looking at all of Penn Water's contracts that it doesn't have a contract, it is not a party to any contract with respect to Pepco, you then decide that it is not a sale by Penn Water to Pepco. Is that correct? A. Yes, if there is no contract covering such a sale I would on the basis of that—it would indicate there would be no sale.

Q. So, in your view there must be a contract covering the transaction before you can call it a sale. Is that correct? A. Well, I presume a sale could be made without there being a formal written contract, but usually there would be a formal contract covering any sale.

. . .

[9332] TRIAL EXAMINER: Answer the question.

THE WITNESS: I don't believe I can answer it in any other way than I did. Usually there would be a formal con-

tract covering the sale, but I believe sales can be made without formal contracts.

TRIAL EXAMINER: But as far as your testimony in this proceeding is concerned, you didn't consider any sale that was not associated with a contract, did you?

THE WITNESS: No, I don't believe I took into consideration any sale that wasn't covered somehow by a contract.

TRIAL EXAMINER: I mean by one of the contracts that is an exhibit in this proceeding.

[9333] **THE WITNESS:** I believe they are all in evidence in this proceeding.

By **MR. MYSE:**

Q. Well, now, just in order that I may understand this last answer, what contract is there covering the sale that you testified to at the last session, from Penn Water to Baltimore, for the account of Baltimore as you put it, to the railroad at Perryville? **A.** That would come under item H, Article II.

Q. You mean Article Roman II, or Arabic 2? **A.** Roman II.

Q. And that is at page what? **A.** 28 and 29.

Q. Where in that Article, Roman II, does it mention a sale by Penn Water to the railroad for the account of Baltimore at Perryville? **A.** Baltimore Company is entitled to all of the energy which is available to Holtwood and which is not disposed of in its area in Pennsylvania. Now, that can include sources from the Philadelphia Electric Company, through Thorndale and at Perryville. It can include generation at Safe Harbor and other purchases by Holtwood from its northern customers or its own generation and to the extent it is not used in Pennsylvania for Holtwood's customers, it is available to the Baltimore Company, and if any of that is delivered to Perryville, [9334] that would be sold to Baltimore Company.

Q. Where in Article II is there anything said about the Baltimore Company being entitled to receive everything left over after sales in Pennsylvania? A. Performance of its now existing contracts and its contracts are with those companies that are in Pennsylvania.

Q. Doesn't Penn Water have a contract with Pennsylvania Railroad Company identified as Exhibit No. 10 in this proceeding? A. Yes, but it makes its portion of the sales to the Pennsylvania Railroad in Pennsylvania.

Q. Will you point out in Exhibit 10 where it says anything of that kind? A. I don't believe it is in that exhibit. That is an agreement between the Baltimore Company and the Holtwood Company.

. . .

[9336] Q. In order that we may know what you are reading from it is the Form 12 report to the Federal Power Commission from the Holtwood-Safe Harbor system for the year ended December 31, 1944. Is that right? A. Yes.

Q. Schedule what? A. That has reference to Schedule 13, and there is a typewritten statement following schedule 13 which reads as follows:

"The portion of the hourly load supplied to Pennsylvania Railroad in *Maryland*, by the respondent for the account of the Consolidated Gas Electric Light and Power Company is not included in this item as hourly load allocations are not measured. The total supply to the Pennsylvania Railroad in *both Maryland and Pennsylvania* is included in line 23 below."

Q. Line 23 shows the figure of 95,000 kilowatts at the time of system peak, and it is in response to an item called Item "E", "System peak load of the year (C minus D). This [9337] entry should agree with the peak load of the year as shown in schedules 14 and 15, using the same demand interval." Is that right? A. Yes.

Q. Now, there is also a note to Schedule 13—line 23, included in the report you referred to, is there not? A. Yes.

Q. Will you read that note? A. "This item includes the joint supply to the Pennsylvania Railroad by the respondent and the Consolidated Gas Electric Light and Power Company and also the Holtwood Safe Harbor System transmission losses and station uses."

Q. Now, is there any reference in Schedule 13 of the report you just referred to, or in the notes thereto to any contract of the kind we have been talking about? A. There is no reference to any contract in here. It shows the amount of power delivered to the Baltimore Company at the time of peak which is labeled power delivered to other systems for resale, and that appears on line 21 of Schedule 13. The amount delivered to the Baltimore Company at the time of peak was 174,000 kilowatts.

Q. Now, Mr. Roland, I don't want to unduly burden you nor do I want to protract this cross examination, but unless you agree with me there is no such contract for the sale of energy from Holtwood to Baltimore at Perryville, I would like [9338] to have you find it for me. A. There is no contract as I stated before which specifically designates Perryville as a delivery point. The sale however in my opinion is made under Article II of Item H.

Q. And that is the only contractual provision that you know of which you say covers the sale by Penn Water to Baltimore that we have been speaking about at Perryville? A. That is the only contractual provision that I know of, yes.

Q. Did you consider those provisions in Article II in arriving at your opinion in your direct testimony with respect to sales? A. Yes. o

Mr. GOLDBERG: Are you referring, Mr. Myse, to any particular portion of the direct testimony?

Mr. MYSE: No, we have been talking generally about the Perryville sales.

THE WITNESS: I didn't have the Article number in mind at that time, but I was sufficiently familiar with the contract to know that was what was taking place, that the Baltimore Company was to receive all that was left over from Holtwood, and some of that was delivered to Perryville.

By MR. MYSE:

Q. At page 8867 you agreed to report on peak transfer [9339] energy, did you not? **A.** Yes. I have had a little bit of time to go into that. That is a very complicated arrangement between the Philadelphia Electric Company and the railroad.

Q. Are you ready to report on it? **A.** Well, I can give you an idea, I believe, as to what is involved. I certainly can't explain all the details of the arrangement.

Q. Well, let's hear what you think is involved, then.

TRIAL EXAMINER: Where is this—8867?

MR. MYSE: Yes.

MR. GOLDBERG: It begins at 8865, doesn't it?

. . .

[9346] **Q.** Did you consider Article X of Exhibit 10, page 32, in connection with your description of peak transfer energy? **A.** That Article has to be taken into consideration in connection with the determination of peak transfer.

Q. Well, is the effect of that Article to impose a limitation on the contractual supply by "Electric Companies," which are Safe Harbor, Baltimore and Holtwood, during the hours of peak load on the railroad in relation to the flows of the Susquehanna River? **A.** Yes.

Q. Wouldn't you also have to consider comparable sections of the contract between Philadelphia Electric Company and the railroad? **A.** The interchange agreement is involved in this.

Q. No, I mean the contract between Philadelphia Electric Company and Pennsylvania Railroad, which is not in

this record, for service to the railroad roughly east of Thorndale and north of Perryville. A. I don't know. I haven't examined that contract, but I presume that to get a comprehensive understanding of peak transfer that should be taken into consideration.

Q. Well, did any of the persons under your direction examine that contract between Philadelphia Electric Company and [9347] the railroad? A. Not to my knowledge.

Q. Getting back to page 8867 again, will you take a look at that. You there said in referring to this peak transfer arrangement, that it was the number of kilowatt hours that were delivered and sold at that point, and by "at that point" I take it you meant Perryville. Is that right? That is at lines 3 and 4. A. I think that I had in mind there both Perryville and Thorndale.

Q. All right. Now, was everything that was delivered and sold at those points, or at Perryville, sold on a gross meter reading basis? A. Sold to whom?

Q. Well, to whomever you meant at that point on page 8867, line 4 of the transcript. A. I had reference to sales by Holtwood to Philadelphia Electric Company at Thorndale and at Perryville.

Q. Anyone else? Any other sales? A. Well, included in those sales would be or might be some of the energy which is sold to the railroad company under the peak transfer agreement arrangement.

Q. Sold to the railroad by whom in the case of peak transfer? A. Holtwood.

[9348] Q. Isn't it Holtwood, Safe Harbor and Baltimore? A. Well, I usually refer to the three of them in this connection as Holtwood.

Q. I think it is important, and don't you, Mr. Roland, in view of the confusion which may arise, to specify whether you mean Holtwood alone or Holtwood, Safe Harbor and Baltimore? In this case I take it you mean Holtwood, Safe

Harbor and Baltimore. . . .

[9349] A. The sales I had reference to were under the interchange arrangement between Holtwood and Philadelphia Electric Company through the facilities of the railroad.

Q. Are you referring to Exhibit 134 in that connection? A. Yes.

Q. That doesn't cover peak transfer energy? A. That doesn't cover peak transfer energy.

Q. Peak transfer energy is something that involves more than just Holtwood, isn't it? A. Peak transfer energy involves the Baltimore Company and Holtwood Company and Safe Harbor Company as well as Philadelphia Electric Company and the railroad.

. . . .
[9383] Q. Actually I think you agreed with me in the testimony at one place that there are different rates for the kinds of energy you were talking about, interchange or firm power delivery. A. That is right.

Q. And there also might be different costs involved in generating and furnishing that energy. Isn't that right, as between interchange and firm power? [9384] A. The differences in costs are certainly taken into consideration in determining what the rate shall be for different types of service, whether it is firm service or interchange.

Q. I haven't asked you whether it be taken into consideration. The question is: Are there differences in costs? A. Yes, there will be differences in costs.

. . . .
[9404] Q. Now, in addition to all of the services we have been talking about with respect to service by Penn Water to Baltimore, they render capacity service to Baltimore, do they not? A. By "capacity service", I presume you mean generating capacity is on the line spinning available for use to the Baltimore Company when they need it?

Q. That is right. What is the answer to my question with that understanding? A. I don't know the details of the method of operation, but I would certainly suspect that there was always more capacity on the line than was actually being used to generate power which would be available to Baltimore or anyone else if the demand should arise for it.

Q. That is a service rendered to Baltimore, isn't it? A. Yes, I think that is a service to Baltimore.

Q. How does Holtwood get paid for that service? A. They get paid for all of this under items H and I.

Q. For all the services we have been talking about? A. Yes.

Q. However, there is nothing in H and I which specifies which part of the revenues received are for each particular [9405] service, is there? A. No.

Q. Was there such specification prior to the amendment in 1931? A. You mean a sub-division?

Q. A sub-division of the total payments made as between charges for specific services. A. There were demand charges and energy charges prior to the 1931 contract.

Q. Were there other specific charges? A. Then there were charges for transmission lines.

Q. Spinning reserve? A. I believe so, but I don't recall at the moment. I believe there was.

[9439] Q. Will you refer to Page 9254, please, lines 8 to 11, inclusive? You there stated that by examining the billings you were able to determine that certain deliveries to Pennsylvania Power and Light Company are firm requirements "because they are obligated to supply the Lancaster requirements." Is that right? A. Yes.

Q. Whom were you referring to when you say "they" in that quoted phrase? [9440] A. The Holtwood Company.

Q. Does that mean then you say Holtwood is obligated to supply the Lancaster requirements? A. Well, there are certain qualifications to that.

Q. What qualifications do you have in mind? A. There again I would have to go back and refer to the contract.

Q. Will you do so, please?

A. In Exhibit 76, Article IV, Page 5, Section 1, "Until Receiving Company—" which is in this case the Pennsylvania Power and Light Company "—shall connect its electric system in Lancaster County, Pennsylvania, with its main system, or with those of other utilities, Generating Companies shall be obligated to supply and Receiving Company shall be obligated to receive and pay for Receiving Company's Lancaster Load Requirements." And then it goes on to define what the "Lancaster Load Requirements" are.

[9441] Q. Well, do you know whether receiving company as referred to in Article IV has connected its electric system in Lancaster County since that was written? A. It has.

Q. Is that the provision you had reference to when you talked about the obligation of Holtwood at Page 9254? A. Not entirely. I stated that there were certain qualifications to that which appear later on in other agreements which followed this case here shown in Exhibit 76.

Q. Now, before we get to the qualifications, however, I think you described who the receiving company was in that quotation but I don't think you mentioned who the generating companies were. A. Generating companies, Pennsylvania Water and Power Company and Safe Harbor Water Power Corporation are referred to as the generating companies in this contract.

Q. Is there any distinction drawn between the two in the contract as generating companies?

TRIAL EXAMINER: Any distinction for what purpose?

MR. MYSE: For purposes of the obligations he has been referring to.

[9442] TRIAL EXAMINER: I am not going to permit the witness to take time to go through that document for the purpose of answering a statement that can be made from the exhibit.

THE WITNESS: There is one statement I would like to make.

TRIAL EXAMINER: In response to this question?

THE WITNESS: Yes. In Article X there is a distinction in that the Holtwood Company acts as though it were the only party to the contract which is a very big distinction.

By MR. MYSE:

Q. Is that the only distinction you can find? A. That is the only one I have in mind which shows that Safe Harbor's part is a very nominal one.

Q. Well, now, the testimony you gave isn't in the contract in that form, is it? It doesn't say that, does it?

TRIAL EXAMINER: I am not going into a discussion of what is in the contract. I am going to strike that statement. The contract will have to speak for itself. The witness' statement is stricken.

[9452] Q. In your studies of flow in Exhibits 42, 40 and 38, I believe, did you ever make any distinction between flow of energy for interchange purposes and flow of energy for firm power services?

MR. GOLDBERG: I object on the grounds it is repetitions. The record already shows a discussion of this subject.

TRIAL EXAMINER: Overruled.

THE WITNESS: Exhibit 42 makes no distinction between whether the energy delivered at certain points was interchange, whether it was emergency or whether it was firm. I have indicated under what particular contracts the energy was delivered at those points. At Coatesville it would be primarily all firm power, for example. At Lancaster it would be mostly firm power, that is in the Lancaster area, not necessarily up at Harrisburg—that would be interchange.

By MR. MYSE:

Q. You limited your answer just now to Exhibit 42. Does the same answer apply to the other exhibits you introduced in the record or testified to on direct relating to power flow? A. Which exhibit do you have in mind?

Q. Well, 38, for example, I believe is one of them. A. 38 merely shows the total electric energy transferred. [9453] Q. Does your answer with respect to the distinction between interchange flow and firm power flow apply to Exhibit 38? A. Exhibit 38 doesn't indicate what character it is, whether it is interchange or firm or emergency, or backfeed or whatever other label you want to put on it.

Q. And the same is true of Exhibit 46. Is that right? A. Yes.

Q. And as a matter of fact, neither of those exhibits drew any distinction between circulating energy as distinct from the flow or firm power or interchange energy. Is that right? A. Circulating energy between what points are you referring to now?

Q. Circulating energy between the York area and the Pennsylvania Power and Light area. A. Exhibit 40 has nothing to do with the York area. This has transfers across the Maryland-Pennsylvania State line.

TRIAL EXAMINER: In your exhibits you just total all your energy and if there is such a thing as circulating energy on the system, it would affect the meter reading and would be reflected in your figures. Is that true?

THE WITNESS: I took meter readings, gross meter readings, which include the total amount of energy measured at that point. [9454] Now, if it included some circulating energy, it would be included in that meter reading.

TRIAL EXAMINER: And that is true of all your exhibits where you have used meter readings?

THE WITNESS: That is right.

By MR. MYSE:

Q. That would also be true of Exhibit 44 and 45 to the extent that they show energy flows thereon. Is that right? A. The energy flows shown thereon are gross meter readings in those circuits.

[9463] Q. Well, is all of the energy delivered at Violet Hill substation sold to Metropolitan Edison Company?

A. Not if some of it is transmitted through the distribution network up to Pennsylvania Power and Light Company. Then it would be sold to Pennsylvania Power and Light Company, and not Metropolitan Edison Company.

Q. So under those circumstances, the delivery at Violet Hill substation means that some energy is sold not only to Pennsylvania Power and Light Company, but to Metropolitan Edison Company as well. Is that right?

THE WITNESS: Some energy—now, what do you mean by that? Some of the energy delivered to Metropolitan Edison [9464] Company's facilities at Violet Hill may not entirely be sold to Metropolitan Edison Company?

By MR. MYSE:

Q. That is right. Isn't that correct? A. That is my understanding of it, yes.

Q. And likewise, some of the energy delivered at the various metering points up in the Pennsylvania Power and Light area may actually be sold to Metropolitan Edison Company. Isn't that right? A. There is that possibility.

I don't know how much or if such a sale is made, but there is that possibility, yes.

MR. GOLDBERG: Are we talking on an annual basis in all these questions?

MR. MYSE: No; over any period.

By MR. MYSE:

Q. Isn't it a fact there is circulating energy between the facilities at Violet Hill and Harrisburg? A. It seems to me I have stated two or three times that that is my understanding, that there is such circulating energy.

Q. And if there is such circulating energy then some of the energy delivered at Harrisburg is actually sold to Metropolitan Edison Company. Is that right? A. It actually may be delivered to Metropolitan Edison Company. As to how they handle it as far as billing, I don't know.

[9465] Q. I am talking about energy delivered at Harrisburg to the facility of Pennsylvania Power and Light Company may be energy that is actually sold to Metropolitan Edison Company. Isn't that right? A. I am saying that energy may be delivered to Metropolitan Edison Company. As to how it is handled, beyond that I don't know.

Q. Do you call energy delivered to Harrisburg on the facilities of Pennsylvania Power and Light Company a delivery to Metropolitan Edison Company? A. No.

Q. Well, when there is such a delivery and there is circulating energy, some of that energy is sold to Metropolitan Edison Company. Is it not? A. I don't know.

Q. You don't know? A. I don't know.

Q. You didn't give any consideration to that factor in your determination of power flow. Is that right? A. I didn't give consideration to that circulating energy, no.

[9468] Q. Now will you refer to page 9089 of the transcript? There we were referring, if you recall, to the different times when the peaks occur on various systems.

My question to you today is, isn't it true that the maximum demands on the Penn Water-Safe Harbor system by the various companies who make demands on that system come at different times and in different quantities during the Penn Water-Safe Harbor system peak than during Area 6 system peak? Isn't that right? A. I will have to have that one read.

(Question read.)

THE WITNESS: I don't understand that.

By MR. MYSE:

Q. What is it about it that you don't understand?
A. I don't understand any of it.

Q. Do you understand what Area 6 system peak is?
A. At the moment I don't remember whether Area 6 system peak includes the deliveries by Holtwood to its Pennsylvania customers or not. I know what companies are included in Area 6, but whether or not it includes firm deliveries by Holtwood to its Pennsylvania customers, I don't recall. Its Pennsylvania customers are not in Area 6, they are in Area 5.

Q. Well, you can determine it very readily by looking at FPC Form 12, can you not? I hand you a photostat of FPC [9469] Form 12 for 1944, filed by Pennsylvania Water and Power Company. A. That wouldn't be for Area 6.

Q. Well, does the Form 12 that I handed you show the demand on the Penn Water-Safe Harbor system? A. Yes.

Q. But you would have to look at something else for the Area 6 system. Is that right? A. That is right.

Q. And that something else is FPC Form 12 for 1944 filed by Consolidated Gas Electric Light and Power Company of Baltimore? A. Yes, covering Holtwood, Safe Harbor, Baltimore, Bethlehem Steel and Washington systems.

Q. Now, will you tell me by reference to either one or both of these documents that I referred to what Area 6

system peak means? A. The system peak as reported here excludes Holtwood deliveries to the Pennsylvania customers.

MR. MYSE: May I have that answer?

(Answer read.)

By MR. MYSE:

Q. Well, will you tell me what Area 6 system peak is?

A. It includes the combined peaks of the Washington system, Bethlehem Steel Company, the Baltimore Company, the Safe Harbor and Holtwood companies, exclusive of its deliveries [9470] to its northern customers.

Q. In other words, the amount of kilowatts shown as Area 6 system peak would be the demands on all of the systems that you named, exclusive of the demands up to Pennsylvania. Is that right? A. Of the demands in Pennsylvania as supplied by Holtwood, yes.

Q. Now, where in Form 12 does it so define Area 6 system peak? A. It doesn't define it that way. I am interpreting it from the figures reported here. On schedule 13 in which the 108,000 kilowatts representing the power delivered to the systems in Pennsylvania are deducted from the total demand on the system generating plants of those companies that I named.

Q. Now, that report you are referring to was filed by Consolidated Gas and Electric Company. Is that right? A. They prepared the report, I believe, yes.

Q. Does the data in that report conform to your idea of the data that should be reported in determining what the Area 6 system peak is? A. It corresponds to the definition as to how these figures are to be reported in the sales to other utilities who have their own generating facilities or buy power from others to be excluded from this system peak, and of course they are in a different area. The northern customers are in Area 5.

[9471] Q. Now, who determined what these areas are? A. The Commission.

Q. So that the Area 6 is determined by definition of the Commission. Is that right? A. Yes. °

Q. Now, will you look at the verification in the form 12 filed by Consolidated for the year 1944 and tell me if there was any qualification on any of the figures contained in that report? A. I am sorry, but I don't believe I understand what you mean by that, "any qualification."

Q. Don't you know what a qualification is? A. Yes, but I am sorry, I don't understand what it is you want me to do.

TRIAL EXAMINER: Just a minute. Now, can you stand somewhere other than right at the corner of the bench looking over the witness' shoulder?

MR. MYSE: I will get another copy.

By MR. MYSE:

Q. Now, may I have an answer to the question? A. Are you referring to the attest on page 36?

Q. That is right. A. There is a footnote there to a statement.

Q. Well, it is short. Why don't you read the attest and the footnote? [9472] A. The attest is as follows: "I have examined the foregoing statement and certify that the answers to the inquiries therein are as full and complete as can be supplied from the records of Consolidated Gas Electric Light and Power Company of Baltimore," which is footnoted "And from data supplied from Pennsylvania Water & Power Company, Safe Harbor Water Power Corporation, Bethlehem Steel Company and Potomac Electric Power Company, and accepted without verification," and then continuing, "and that they are true and accurate, to the best of my knowledge and belief," signed by F. E. Ricketts, Vice President of Consolidated Company.

MR. GOLDBERG: How about the other attest? Don't you think we ought to have that in?

MR. MYSE: All right.

THE WITNESS: There is an attest which precedes the one I just read, which reads as follows:

"I have supervised the preparation of the foregoing statement and certify that it is based upon the records of the company, and is correct to the best of my knowledge and belief." Signed E. J. Knight.

By MR. MYSE:

Q. And there is an asterisk after the word "Company," which refers to the same footnote that you read. Is that correct? A. There is a little blotch over there underneath [9473] the word "preparation," yes, on that copy (indicating) it appears more distinctly and it is after the word "company."

Q. And the copy I just showed you was the original filed with the Federal Power Commission. Is that correct? A. Yes.

. . .

Q. Well, Mr. Roland, regardless of whether or not the demands of the Pennsylvania customers in Pennsylvania are included in the maximum demand at the time of Area 6 system peak, as shown by the Form 12 filed with the Federal Power Commission by Consolidated Company, there are demands at the time of that system peak, are there not, by those customers? A. Yes.

Q. Now, the time of the maximum demands by each of those customers on the Penn Water-Safe Harbor system comes at a different time than the demands by those same customers at the time of Area 6 system peak. Isn't that correct? A. You mean, for example, that the maximum demand say of Holtwood's delivery to Coatesville during the year may not occur at the same hour as the maximum demand on Area 6 peak?

Q. That is right. [9474] A. I don't know, but it is quite likely that it would be at a different hour. I don't know.

Q. And likewise the maximum demands of the other Pennsylvania customers would not occur at the time of the maximum demand on Area 6 system peak? A. I don't know whether they actually did, but it certainly wouldn't necessarily follow that they would occur at that same hour.

Q. Or would the maximum demand on the Baltimore-Safe Harbor system be at the same time as the maximum demand on Area 6 system? A. Not necessarily, no.

Q. The fact is it does not. Is that right? A. I presume the maximum demand by Baltimore would occur at time of high flow, which would not correspond with the Area 6 system peak.

Q. And that time of high flow is usually in the spring? A. Yes.

Q. And the Area 6 peak usually occurs in the fall or winter. Isn't that correct? A. I think it usually occurs some time in December.

Q. Now, the time of the maximum demands by the Pennsylvania customers on the Penn Water system alone might or might not be different than the time of such maximum demands at the time of the Penn Water-Safe Harbor system peak. [9475] Isn't that correct? A. I believe that would be correct, because the Penn Water-Safe Harbor system peak probably would occur also during periods of high flow, which would not correspond with the maximum demands of the northern customers.

Q. And it is also true, is it not, that the maximum demand by Pennsylvania Power and Light Company on the 25-cycle system of Holtwood would occur at a different time than either the maximum demand period on the Penn Water-Safe Harbor system, the Penn Water system alone, or the Area 6 system? A. I don't know when it occurred, but it is quite likely it did not occur at the same hours you mentioned.

Q. Would the maximum demand by Baltimore on the 25-cycle system of Penn Water occur at a different time than the period of maximum demand on the Area 6 system?

A. The maximum demand by Baltimore on the 25-cycle system of Holtwood would again be governed by river flow, which would not necessarily correspond to the maximum demand on the system which you named.

Q. And that maximum 25-cycle demand by Baltimore would very likely occur in the spring. Is that right? A. Yes.

Q. What do you understand the Penn Water-Safe Harbor system to be? [9476] A. As they report in the Form 12, it includes the Holtwood Company and the Safe Harbor Company.

Q. And all of the demands on that system are the demands of all their customers. Is that right?

THE WITNESS: Let me have that question again, please.

(Question read.)

THE WITNESS: That isn't the way it is reported in Form 12 report, Mr. Myse.

By MR. MYSE:

Q. Well, what customers are excluded? A. Philadelphia Electric Company, Edison Light and Power—I am reading now from the 1944 report—Pennsylvania Power and Light Company, Metropolitan Edison Company, Consolidated Gas Electric Light and Power Company.

Q. What schedule are you looking at now? A. Schedule 13.

TRIAL EXAMINER: Did you say those were included or excluded?

THE WITNESS: Those were excluded from the system peak.

By MR. MYSE:

Q. The demand on the system generating plants doesn't exclude any of the demands of the Pennsylvania customers, does it? A. Well, it couldn't. The demand on its system generating plants is the demand on the system generating plants [9477] regardless of any other deliveries to anyone else.

Q. What was that maximum demand in 1944? A. 369,000 kilowatts.

Q. And that was on a sixty-minute basis? A. Yes.

Q. And that was April 19, 1944, 8:00 A. M. Is that right? A. Yes.

Q. Now, the exclusions that you referred to are the demands of various Pennsylvania customers which under Item D of Schedule 13 of the Form 12 report for 1944, are characterized as power delivered to other systems for re-sale. Is that right?

MR. GOLDBERG: Now, just a minute. That is not complete.

MR. MYSE: Well, let's have the witness' answer.

MR. GOLDBERG: I mean your question wasn't complete. I move to strike the answer, Mr. Examiner, and I object to the question as an incomplete question.

TRIAL EXAMINER: Do you have the report before you?

THE WITNESS: Yes, Mr. Myse read part of the statement for Item D.

TRIAL EXAMINER: Do you agree with what he read?

THE WITNESS: Well, he read it correctly as far as he read, yes.

TRIAL EXAMINER: Do you have anything to add to it?

[9478] THE WITNESS: If I want to complete the statement that is shown in Item D, it should include "Except those listed in Schedule 8, Part A."

By Mr. MYSE:

Q. Well, what are included in Schedule 8, Part A? A. None.

Q. So then my statement was correct, wasn't it? A. May we start all over again and get it straight now?

Q. There was no exception, so there was no need to refer to the exception. Isn't that right? A. Well, after looking back at Schedule 8, I find there are no exceptions, so that would have no bearing on what is shown in Item D.

Q. While we are back on Schedule 13, Mr. Roland, at page 9337 of the transcript yesterday you quoted from one of the notes to that schedule starting at line 9 and the record reads, "This item includes the joint entry to the Pennsylvania Railroad", and actually the note reads "This item includes the joint supply to the Pennsylvania Railroad". Isn't that correct? A. That is correct.

Q. I believe you agreed with me, Mr. Roland, and if not you may correct me, that there is a difference between demands measured on a 60-minute or one-hour basis and demands measured [9479] on a 15-minute integrated basis.

A. There can be a difference, yes.

Q. And there very probably is, if there are any swings?

A. If there are swings there would be a difference, yes.

Q. And likewise there would be a difference between demands measured on a 30-minute basis and demands measured on a one-hour basis. Isn't that right? A. The shorter the demand interval, the greater the difference might be if there are swings.

Q. And the indicated demands on a 30-minute basis, if there are swings, would be higher than the indicated demands on a one-hour integrated basis. Isn't that right?

A. That is correct. But I believe you should use the word integrated instead of indicated.

Q. With that amendment, my statement is correct?

A. Yes.

Q. And likewise if you had a meter registering instantaneous demands, they would be very much higher relatively speaking than the same demands measured over an hour-integrated period? A. They could be if there are load swings.

Q. And there are usually load swings on most of these customers served by the Safe Harbor-Penn Water system,

are there not? A. I don't know, Mr. Myse. I haven't examined any [9480] information that would indicate to me what the magnitude of load swings would be. I presume there are some. There would be in systems of this kind.

Q. From your knowledge of the flow of power to the Pennsylvania Railroad, isn't it true there are considerable swings on the energy supplied to the Pennsylvania Railroad system? A. Well, without even having looked at

any of that data, I would certainly expect there would be load swings on the railroad.

Q. Do you know anything about the steel plant operations in Baltimore? A. No, but usually you get swings on a steel plant.

Q. And to the extent that those steel plants are connected to the Baltimore system, they would create swings on the energy supplied to Baltimore. Is that right? A. Supplied to Baltimore from what? Its own generating sources?

Q. From the system of Penn Water and Safe Harbor. A. It would create a swing on the interconnected system which would include generating facilities of the Washington Company, Safe Harbor in its own plant, Bethlehem Steel and all the plants connected to the system.

[9481] Q. Well, under the method of operation of this interconnected system, who absorbs the swings? A. Well, usually where you have a big hydro system or hydro plant in the interconnected system you let the hydro units take swings.

Q. Well, if the hydro plant doesn't take or absorb the swings, who does? A. I don't know.

Q. And since Safe Harbor and Holtwood are hydro plants connected to the Baltimore system through the 220 lines at least, they take care of the swings as I understand your testimony. Is that right? A. Well, that would be my opinion that a good part of the swing at least would be handled by the hydro units at Safe Harbor and Holtwood.

Q. Well, did you in your study for the purposes of direct testimony study the nature of the flow of energy in connection with the swings we have been referring to?

A. No, that was not at all essential to my study.

• • •

[9489] Q. You there were describing Holtwood and Safe Harbor as run of river plants. Is that right? A. Yes.

Q. Now, actually you can regulate the operation of those plants over a period of more than a few hours, can't you? A. Yes.

Q. And that regulation is from storage at the site or above, isn't it? A. Storage in the Holtwood pond and the Safe Harbor pond.

Q. Is it at the site or above? A. It is at the site at Safe Harbor and above the site at Holtwood, I presume.

[9490] Q. Now, do you know what the definition of a run of river plant is in the Form 12 report prescribed by the Federal Power Commission? A. No, but I can look it up if it is in there.

Q. If you have it there you might look at Schedule 2, Paragraph 4, and tell me how the Federal Power Commission describes a run of river plant. A. " 'Run of river' refers to those plants whose operation cannot be regulated over a period of more than a few hours, either from storage at site or above, but whose operation is, in general, controlled by the volume of flow which must be utilized as it occurs or be wasted."

Q. I believe in your qualifications you said you had something to do with making up this report. Isn't that right? A. Yes, but I didn't make up the definitions which appear in this schedule that you referred to. They were made up at some time after I had ceased working on this form.

Q. Now, since you agree that the operations of both the Safe Harbor and Penn Water hydro plants can be regulated over a period of more than a few hours either from storage

at site or above, you can't say that these plants are run of river plants within the definition of the Federal Power Commission, can you?

[9491] THE WITNESS: It is true it would not be a run-of river plant as defined in that schedule of Form 12.

By MR. MYSE:

Q. So when you described those plants as run of river plants, you used a definition different from that used by the Federal Power Commission? A. Yes. It is a relative term. You describe plants as storage plants or run of river plants. It isn't a storage plant and it isn't strictly a run of river plant according to that definition there, but it is a relative term and in a good deal of literature prepared by the company they describe it as essentially a run of river plant.

Q. Over what period of time would you require storage operation to be conducted before you would cease to call a plant a run of river plant? A. I haven't any particular limitation in mind.

[9492] Q. One week? A. No. I think that a storage plant would be on a monthly or seasonal basis. It is a purely relative term. I don't believe there is any real limit set up as to when a plant is a run of river or when it is a storage plant. The term is used very loosely.

Q. Are you sufficiently familiar with the operations of these plants to determine whether or not they are ever operated on a seasonal or monthly basis? A. Well, the storage isn't available for a seasonal basis of operation, no.

[9493] Q. What do you mean by seasonal? A. Where you can store enough water in a reservoir to carry out your operations without any further inflow for a substantially long period of time.

Q. What do you mean by a substantially long period? A. Well, there are plants that store up for a period of six months to carry them over for a dry period of several

months in which there is very little inflow during that dry spell. Well, I would call that a storage plant. Certainly the Boulder project would be a storage plant.

Q. Now, actually the Federal Power Commission has a definition of storage plants, too, doesn't it? A. I believe there is one in there.

Q. Well, it is very short, one sentence. Will you read that in Paragraph 4 of Schedule 2 of FPC Form 12?

[9495] THE WITNESS: The instruction page of Schedule 2 of this Form 12 report defines storage as follows:

“ ‘Storage’ refers to those plants whose operations can be varied as desired because of storage at site or above. This regulation may be weekly, monthly or seasonal.”

By MR. MYSE:

Q. Now, it is a fact that both the Safe Harbor and Penn Water plants can be regulated on a weekly basis, at least, because of the storage at the site or above? A. Yes, but there you can see how loosely the term is used. Storage can be weekly, monthly or seasonal. It covers the entire range practically from a week up to a year or two years. It is a very broad term.

[9502] Q. In your view, does Baltimore have an obligation for the supply to the railroad in Pennsylvania? A. Well, the obligation is one which all three companies—I mean—take on as a whole.

Q. Is it Baltimore's obligation? A. There is no division in the obligation as between Baltimore and Holtwood as far as any part of the railroad load is concerned.

Q. Now, in your Exhibit 42, you took 20 days and showed the hourly data for those days. My question is, are those [9503] 20 days helpful in determining the average

amount of net backfeed over the year 1944? A. You say, would it be helpful?

Q. Yes. A. Sure, any information you had would be helpful.

Q. Would it give you any indication as to the relative amount of backfeed for the year 1944 if you just looked at those 20 days? A. Not if you just looked at that alone.

Q. What else would you have to look at? A. Well, if you want the real answer, you would have to look at all the days of the year, the hourly readings for all of the year.

Q. As a practical matter, the twenty days you took were largely days of low flow. Is that right? A. I believe most of them were for low flow.

Q. And when I say "low flow" I mean low river flow and that is what you understood, isn't it? A. Yes.

Q. And it is during the days of low river flow that you would expect to find greater amounts of backfeed from Baltimore. Isn't that right? A. Ordinarily that would be true, yes.

[9506] Q. Do you consider 1944 abnormal from the standpoint of energy flows on the system of the Penn Water-Safe Harbor system?

THE WITNESS: 1944 was a war year.

Q. As I understand, that means that whatever abnormality there was arose out of war conditions. Is that right? A. There were some conditions that Mr. Von Eiff explained to me that I believe occurred during some weeks in 1944 that due to war conditions there was a shortage of oil for generation in Pennsylvania, and on occasions more energy was sent up to replace the oil generated energy in Pennsylvania and would not have taken place had it not been [9507] for the shortage of oil.

Q. When you say energy was sent up, you mean there was more backfeed than would have taken place if there had

been no shortage of oil during the war period? A. I don't know whether it would have meant more backfeed or less delivery to Baltimore.

. . .

[9510] Q. Now, Mr. Roland, in addition to this oil shortage situation during the year 1944, it is a fact, is it not, that the war loads were what might be called loads with a flattened load shape because of overtime in industrial plants. Isn't that right? A. Where?

Q. All over the eastern sea coast. A. I don't know what happened all over the eastern sea coast.

Q. Well, how about the industrial plants connected to the systems of the customers of Penn Water and Safe Harbor? A. The load shape for the interconnected system was flatter during the war period than it was prior to the war.

Q. And that was the result of overtime in industrial [9511] plants, wasn't it, generally speaking? A. Yes, it would be the result of operating the manufacturing plants on a 24-hour or 18-hour basis.

Q. And those were all wartime conditions which you wouldn't expect now in peacetime. Isn't that correct? A. Well, there would be more of it during the war period.

Q. And that would be an abnormality during the year 1944 as a result of the war, wouldn't it? A. No, I wouldn't say it is an abnormality. As I understand for 1946 the load shape is not so far different from what it was then and we are not in a period of a war now.

Q. Did you have any data for the year 1946 when you prepared your direct testimony? A. I did not.

Q. Where did you get this information about the load shape in the year 1946? A. From the discussions with the engineers of the Baltimore Company.

. . .

[9517] Q. Do I understand you to say, then, Mr. Roland, that you considered neither Exhibit 228 for identification

✓

nor Exhibit 229 for identification in coming to the conclusions you did come to with respect to power flow in your direct testimony in this case in connection with Exhibits 42, 38 and 40? A. As I stated to the Examiner, I didn't use them at all.

Q. You didn't consider them, then? A. I didn't consider them.

[9534] Q. Now, at page 8834, line 11 through line 13, you stated that the sales in the State of Maryland are the obligation of Baltimore whereas the sales in the State of Pennsylvania are the obligation of Penn Water. What do you mean by obligation in that connection? A. It seems to me in my subsequent testimony there I modified that, or at least I gave my understanding of that.

Q. Well, I don't think I ever referred to this particular testimony before. What is your understanding of that now?

MR. GOLDBERG: Why don't you give the witness an opportunity to look at that testimony. Maybe he has explained it.

MR. MYSE: If he had explained it I don't believe I would ask the question. I don't think he has.

THE WITNESS: Well, at the bottom of page 8836 you asked the same question. What other obligations does it have to the railroad and I said "It supplies power to the railroad but it doesn't necessarily all have to be consumed in Maryland."

By MR. MYSE:

Q. That was going to be my next question, Mr. Roland. How does Baltimore supply the energy you referred to there to the railroad? Just how does it do it physically? A. At what point now are we talking about?

Q. Well, let's say any point on the railroad system. A. Baltimore Company's facilities do not tie in directly with the railroad.

[9535] Q. There is no connection of Baltimore's facilities to the railroad's facilities, is there? A. There is no direct connection of the facilities of Baltimore and the railroad.

Q. Now, in your view how does Baltimore supply energy to the Railroad? A. Over the facilities of the Holtwood Company, the Susquehanna Transmission Company of Maryland and through the facilities of Pepco.

Q. And it uses those facilities in order to make that supply. Is that right? A. Well, the energy is supplied over those facilities.

Q. Now, did you intend your answer at the bottom of 8836 to mean that Baltimore does have an obligation to the Pennsylvania Railroad in the State of Pennsylvania?

A. The companies who are parties to the contract agreed to supply the total requirements.

Q. Does it have an obligation to supply the railroad in the State of Pennsylvania? A. It isn't so defined. It is merely defined that the total obligation is accepted by the three parties to the contract, the supplying companies.

Q. Well, then, as I understand your answer now, the obligation of Baltimore Company to the railroad is not confined to the supply of energy in the State of Maryland. Is [9536] that right? A. Its obligation is not defined

other than that the three companies are obligated to supply the total railroad requirements.

Q. Is my statement correct, Mr. Roland? A. I don't know how I can answer that any other way than what I have.

MR. MYSE: Mr. Examiner, I think the question is clearly susceptible of a yes or no answer.

TRIAL EXAMINER: It seems to me it is susceptible to a more definite answer if the witness knows.

MR. MYSE: May I have that statement, please?

MR. GOLDBERG: The difficulty with the question is that it asks for a legal conclusion.

MR. MYSE: Do I understand the witness is directed to answer the question directly?

TRIAL EXAMINER: Answer the question.

MR. GOLDBERG: I understand the Examiner's direction is that he make a different answer if he is capable of making a different answer.

THE WITNESS: All I can state, Mr. Myse, is that the parties, supplying companies, agree to supply the total requirements of the railroad, and there is no particular area set aside for an obligation of either one of the companies. It is just a total requirement supplied by all the companies.

[9537] TRIAL EXAMINER: What you mean, then, is that it is not defined in such a way as to limit it to the state of Maryland.

THE WITNESS: It is not defined at all other than to supply the total requirements wherever they might be.

By MR. MYSE:

Q. Pennsylvania as well as Maryland. A. The railroad requirement in Pennsylvania as well as in Maryland is the obligation of the supplying companies.

Q. And that might be the obligation of Baltimore as one of the supplying companies. Is that correct? A. I stated it was the obligation of all the companies.

. . .

[9539] Q. Well, who sells the services or the energy, if you will, that is supplied to the railroad at Conestoga? A. That which is delivered at Conestoga and used in Pennsylvania is sold by Holtwood.

Q. Well, is it sold by anyone else at that point, at Conestoga? A. I don't know.

. . .

[9541] Q. Well, I understood your testimony to be that at least some of the energy which is delivered at Conestoga is sold by Holtwood to the railroad. Is that right? A. That part of it which is used in Pennsylvania would be sold by Holtwood. Now, whether that is considered the sale point, I don't know.

Q. Now, that part of it which you say is consumed by the railroad in Maryland you say is sold by the Baltimore Company? A. Yes.

. . .

[9546] Q. Mr. Roland, is it your testimony that the compensation that Penn Water receives for its services rendered to the railroad in Pennsylvania is received by reason of the document identified in this record as Exhibit No. 11?

. . .

[9548] Q. May I have an answer to my question, Mr. Roland? A. The compensation does not result from Exhibit 11. It results from the fact that power and energy is supplied to the railroad. The railroad pays for it.

Q. Does the railroad pay it to Holtwood? A. The check is made out to Baltimore Company, as I stated before, with the understanding that Holtwood shall receive a part of it. That is a matter of convenience, as I stated before.

Q. Now, isn't that understanding that you are referring to arrived at under the provisions of Exhibit No. 11? A. Exhibit No. 11 provides for the split-up of the money received from the railroad company.

. . .

[9563] Q. Can you tell me how much two-thirds of the daily energy available from the development at Safe Harbor was in 1944?

. . .

[9564] THE WITNESS: I don't believe I understand what you mean by the "daily energy available."

. . .

[9565] Q. Do you or do you not understand what the phrase means? A. Not as you are using it, no.

[9566] Q. So that you are unable to tell me the amount of the daily energy available in the development at Safe Harbor during the year 1944. Is that right? A. I do not know.

. . .

[9577] MR. KING: Before we call Mr. Newlands I would like to report on the homework which the Staff requested of Mr. Gunn during his cross-examination on original cost.

In the first place, Mr. Gunn was requested to ascertain, in effect, whether there was an opinion of the Pennsylvania courts in connection with the litigation with the State of Pennsylvania concerning the amount of the Pennsylvania State Tax against McCall Ferry Power Company for the year ending 1905.

This request was made at pages 7514 to 7519 of the record.

We made the check and have ascertained that there is no opinion of the court in the company's files in connection with this case, and, further, our understanding is that the court rendered no reported opinion.

In the next place, Mr. Gunn was requested to determine whether the testimony of Mr. Harlow contained in Exhibits 171, 172 and part 21 of Exhibit 27 was an excerpt from his direct testimony or from his cross-examination.

We have checked the company's files and find that the excerpts contained in Exhibit 171 apparently were taken from [9578] pages 99 and 100 of the reported transcript in the case of Susquehanna Power Company v. the Proprietors of the Susquehanna Canal in the Circuit Court for Cecil County on January 28, 1907.

This portion of Mr. Harlow's testimony was covered while he was being cross-examined.

The excerpts contained in Exhibit 172 were apparently taken from pages 39 and 40 of the transcript of the testimony of Mr. Harlow on direct examination in the case of Susquehanna Power Company v. the Proprietors of the Susquehanna Canal, condemnation proceedings in Cecil County, dated September 4, 1906.

The excerpts of Mr. Harlow's testimony contained on part 21 of Exhibit 27 were taken from his direct testimony on pages 11 and 12 of the transcript of testimony in the case of Susquehanna Power Company v. the Proprietors of the Susquehanna Canal in the Circuit Court of Cecil County, on January 28, 1907.

. . .

[9579]

JOHN M. NEWLANDS.

. . .

[DIRECT EXAMINATION (Continued).]

MR. GOLDBERG: Mr. Examiner, I suggest that before Mr. King begins with his cross-examination of Mr. Newlands that Mr. Newlands be permitted to point out certain typographical errors in the exhibit which he has discovered, and which I am sure Mr. King and everyone would like to know about.

MR. KING: You mean in Exhibit 51?

MR. GOLDBERG: Yes; in several other exhibits, also.

May the witness go ahead with those?

TRIAL EXAMINER: He may.

THE WITNESS: In Exhibit 51, page 23 of part 1, line 19, it reads: "Memorandum of understanding dated April 24, 1907."

[9580] It should read, "April 24, 1909."

MR. KING: Thank you. We have that, Mr. Newlands.

THE WITNESS: Exhibit 51, page 38, part 2, that is the schedules, the item of general office salaries, column 8 reads, "\$10,255.94 (b)."

It should read \$10,255.94 (a). In other words, the note should be changed from (b) to (a).

Exhibit 51, part 2, page 51, the item of printing stock certificates in columns 5 and 7 should read \$1248 in each case instead of \$1548.

MR. GOLDBERG: Does that change the total in the column?

THE WITNESS: No, because I have another change in the same exhibit.

MR. GOLDBERG: I see.

THE WITNESS: The item of miscellaneous expenses at the bottom of that exhibit should be increased by a like amount for the same years. In other words, column 5 should read \$415.98 instead of \$115.96, and column 7 should read \$950.28 instead of \$650.28.

In Exhibit 51, part 2, page 39, the total at the bottom of the page should read \$35,832.15 instead of \$25,832.15.

Exhibit 51, page 43, part 2, the item of Simpson, Thacher and Bartlett, legal services, under reorganization expenses, column 2 should read \$23,287.21 instead of \$23,827.21.

MR. KING: Does that change the sub-total?

[9581] THE WITNESS: No, the sub-totals are correct. It was just a typing error.

MR. KING: Very well.

THE WITNESS: Exhibit 51, page 53, part 2, the line for the year 1910 under column 3 should read \$1,277.31 instead of \$1,227.31, the total remaining unchanged.

Exhibit 51, page 37 of part 2, the second sub-total on that page, in other words, the sub-total which precedes the total, column 4, should have a reference mark (a) after the \$166,087.42 figure.

Exhibit 52, sheet 2, the year 1917, column 9, should read——

MR. KING: Would you wait just one moment, Mr. Newlands?

THE WITNESS: Yes. (Short pause.)

Should read \$21,051,748.19 instead of \$21,051,758.19.

MR. KING: Figure 4 is the only thing changed?

THE WITNESS: That is right, changed at that point.

Exhibit 51, page 2, year 1918, column 9, should read \$21,152,818.51 instead of \$21,051,748.19.

MR. KING: As I understand it, the figure should read \$21,152,818.51. Is that correct?

THE WITNESS: That is right.

Exhibit 54 is next.

There is an immaterial correction there. One-half of a bracket was left off of the item for transfer between reserve [9582] account at December 31, 1931.

MR. GOLDBERG: Column 3?

THE WITNESS: In column 3; that is right.

MR. GOLDBERG: You are supposed to close the bracket.

THE WITNESS: That is right.

MR. KING: Did you say that was a slightly immaterial correction?

THE WITNESS: I figured people would recognize the other part of the bracket belonged there.

TRIAL EXAMINER: Very well.

THE WITNESS: Next is Exhibit 55, the year 1914, column 12, and it should read \$411,977.58 instead of \$411,977.51.

Exhibit 57——

MR. KING: Does that change the total in that column?

THE WITNESS: No. That is a total. It adds across and does not change the total at the bottom.

Exhibit 57, the year 1923, column 5, should read \$941,292.32 instead of \$941,202.32.

MR. GOLDBERG: Would you read that last correction, please?

(Read.)

THE WITNESS: Exhibit 57, year 1918, column 7, it should read \$13,204,623.12 instead of \$13,204,523.12.

That completes the corrections.

CROSS-EXAMINATION (Continued).

By MR. KING:

[9583] Q. Do you have Exhibit 51 in front of you, Mr. Newlands? A. Yes, sir.

Q. You have heretofore testified, Mr. Newlands, on pages 1100 and 1101 of the transcript that you assumed full responsibility for the determination of your original cost study designated Exhibit 51 in this case. Is that correct? A. That is correct.

Q. Will you name the persons who assisted you in making your determinations, conclusions and recommendations made in this Exhibit? A. If you mean by that the people who worked for me—none of them assisted me in arriving at conclusions—

Q. I mean by that that I want you to name everyone who assisted you in connection with the preparation of Exhibit 51. A. Or in connection with the underlying details?

Q. Correct. A. Mr. T. S. Montgomery.

Q. Who is he? A. An accountant.

Q. All right. A. Mr. T. F. Keavlain.

Q. Is he also an accountant? A. Yes.

Mr. Jules Englander. He is also an accountant.
[9584] Mr. Lyons, also an accountant.

Mr. McGrath. He is an accountant.

You want only the persons who worked on Exhibit 51?

Q. Correct. A. Mr. Epperson.

Q. Who is he? A. He is an accountant.

Mr. Gagnon. He is an accountant.

Mr. Mark Welt. He is an accountant.

That is all I recall at the moment.

Q. Then as I understand it, Mr. Newlands, you had no engineering or legal assistance. Is that correct? A. I had engineering assistance. I accepted the date of commercial operation given by our engineers, but I had no engineering assistance in preparing Exhibit 51 other than that.

Q. As I understand it, then, you had no engineering assistance in connection with any of the conclusions or determinations in Exhibit 51. Is that correct? A. I may have discussed some of the facts with our engineers. How they affected my conclusions I am not able to say now.

Q. What engineers did you discuss the facts with? A. Mr. Howell was over at various times.

Q. Who else? [9585] A. I believe he was the only one I had most of the discussion with. I may have had short discussions with other people but Mr. Howell in chief.

Q. Did he make the determination in connection with the date of commercial operation which you testified you accepted? A. He made the determination and I agreed with it.

Q. You accepted it? A. I accepted it.

Q. Did you have the right, Mr. Newlands, to modify or change Mr. Howell's determination? A. No, I didn't have that right.

Q. As I understand it, Mr. Howell was the only engineer with whom you talked in connection with the preparation of Exhibit 51. A. No, that is not my statement. I said most of my conversations, if I had any, may have been

with Mr. Howell. I may have mentioned items to Mr. Stanley Roland, who was over on various occasions, but none of my discussions with him affected Exhibit 51, and I doubt any of my discussions with Mr. Howell affected Exhibit 51. They may have, but I don't think so.

Q. Did you or did you not have discussions with those gentlemen? A. I had discussions with all of the engineers who came over to Baltimore, but as to recalling just what I discussed, [9586] that is impossible at this time.

Q. Who were all the engineers who came over to Baltimore? A. Mr. Stanley Roland was one. Mr. Howell was another. Mr. Davis was another. Mr. Nelson was another. Mr. Bybuth was another.

Q. Is that all? A. There were one or two others but I don't recall their names at the present time.

Q. How about Mr. Jeffery? A. He was over there, yes.

Q. What was the nature of the discussions you had with those gentlemen? A. As I told you before, it is impossible to recall now.

Q. Do you recall the nature of any of the discussions you had? A. Well, I can recall two or three. I remember discussing flashboards with Mr. Howell, and I may have discussed them with Mr. Roland.

Q. Anything else you can remember? A. I discussed repairs at the toe of the dam with Mr. Howell.

I discussed various of the items claimed from operation and maintenance accounts or from the reserve accounts with Mr. Howell. Which ones specifically I don't remember.

[9587] Q. Does Exhibit 51 reflect any of the substance of any of those discussions with the engineers? A. No. Exhibit 51 is based on my conclusions.

Q. And your conclusions alone. Is that correct? A. That is right.

Q. Except the date of commercial operation. A. That is right.

Q. Did the accountants whom you have named all report directly to you? A. That is right.

Q. And you directed the work they were to perform in making the investigation. A. That is right.

Q. What was the scope of the authority of these accountants whom you have named in conducting the investigation? A. Are you asking me what is the scope of the authority of the accountants who assisted me?

Q. What is the scope of the authority of the accountants whom you have heretofore named and indicated assisted you in making their investigations? A. They did only what I asked them to do and reported to me.

Q. Did you give them directions in writing or orally? A. Orally.

Q. Did you have the right to reverse any conclusions or [9588] determinations made by them if you thought it proper to do so? A. That is right.

Q. Did you actually reverse any of their conclusions or determinations? A. No, because as I recall it they did not make any conclusions.

Q. Then what did they do? A. They abstracted the figures from the records, made analyses, made up statements as I directed them, and things of that nature.

Q. Can you make an analysis without coming to a conclusion? A. Certainly. You merely copy the figures down in a certain order.

Q. Can you make an analysis without exercising judgment? A. Yes, you can.

Q. And that is the kind of analysis they made? A. They made the analysis I directed.

Q. And without exercising any judgment. A. I directed them as to what they were to put down and how they were to do it.

Q. Therefore they exercised no judgment. Is that correct? A. Very limited. There might have been some judgment involved.

[9589] Q. I thought you said no judgment was necessary.

A. There would be judgment involved in following my instructions for one thing.

Q. You mean because they were unclear? A. No, because it involves interpreting them.

Q. Can you give us an example which would involve interpreting any of the instructions you gave those gentlemen? A. I might have asked one of my assistants to make an analysis segregating certain types of charges, or segregating charges to the account in a certain way, grouping them in a certain manner, in other words.

The actual segregation of those charges by those groups would involve some determination on the part of the persons doing the work.

Q. In that situation, then, your assistants would exercise to a limited extent, total judgment in some instances, wouldn't they? A. They might if no explanation were given of the items involved. Usually we had a description of the items so I could tell later on in examining the work whether they classified it properly.

[9590] Q. Did you have that description before the investigation began? A. I had no descriptions before the investigation began.

Q. You mean whatever descriptions you gave them resulted from the investigation? A. I was referring to the descriptions which the accountants might copy down on their working papers of the items they had taken off.

Q. Then all of the people who actually—— Strike that, please.

All of the employees, then; of the Federal Power Commission who assisted you other than Mr. Howell were directly under your supervision. Is that correct? A. That is right, all of the accountants were directly under my supervision.

Q. Didn't you just testify that the only engineer who assisted you was Mr. Howell? A. That is right. Your statement is correct. I merely wanted to make certain of it.

By the way, with regard to the last statement, Mr. Howell did not assist me. I merely discussed matters with him.

Q. Well, if you include some data with reference to date of beginning of commercial operation, and Mr. Howell [9591] concluded that, wouldn't you call that assistance?

A. With that exception.

Q. Then as I understand it, the only assistance you received from the accountants working under you was of a detailed nature. In other words, they just took figures off the books and reported to you. Is that correct? A. That is right.

Q. Do you now occupy the same position with the Federal Power Commission that you occupied at the time of the investigation in this case? A. Do you mean at the time of the beginning of the investigation?

Q. And straight through. A. No.

Q. All right. What was your position at the beginning of the investigation? A. I was a Principal Examiner of Accounts at the beginning of the investigation.

Q. Has your status changed during the investigation? A. Yes.

Q. To what? A. I am now a Chief Examiner of Accounts.

Q. That is the only change made? A. That is correct.

MR. GOLDBERG: That represents advancement, if I may [9592] interpose.

THE WITNESS: Yes, that represents advancement.

By MR. KING:

Q. Who is your immediate superior in the Federal Power Commission? A. Mr. Edward L. Dunn.

Q. Was he your superior during all the time you conducted the investigation? A. That is correct.

Q. So that the change in your status has not changed your relation with Mr. Dunn. Is that right? A. That is true.

Q. Will you please describe in some detail the scope of your responsibilities in connection with the two positions you have just referred to? A. Either one of the positions would involve heading field parties to make studies of the books of licensees or public utilities for the purpose of determining original cost or securing information for rate cases, or any other purpose which the Commission desired me to undertake.

Q. That is the scope of both positions? A. That is true, except that the Chief Examiner of Accounts usually would undertake the larger utilities, but either rank would constitute heading a field party.

Q. What do you mean "undertake larger utilities"? [9593] You mean the work in connection with larger utilities? A. I mean utilities larger in size in total assets.

Q. Work on them would not come under you? A. No, that was not my statement.

Q. Will you explain? A. I am saying that a Chief Examiner of Accounts would ordinarily be assigned to the larger public utilities.

Q. And you would be assigned to the small ones? A. A Principal Examiner of Accounts would be usually assigned to the smaller public utilities, but there is no strict dividing line. The Commission can do what it likes.

Q. That means you are generally assigned to work on the cases involving smaller utilities? A. No, that is not true.

Q. You work on both? A. I work on both.

Q. You generally have responsibility for work on larger utilities? A. That is right.

Q. That is full responsibility in connection with the work on them as well as on the smaller utilities? A. I might have, yes. As a Principal Examiner of Accounts I could be assigned to a utility of any size.

Q. Have you ever been so assigned to the larger [9594] utilities? A. No, not in complete charge of the work.

Q. What is your understanding of the difference between a small and large utility—dollarwise or what? A. Total assets.

Q. Where is the dividing line so far as assets are concerned? A. I don't know. I never have heard that described.

Q. Who determines that? Somebody other than you? A. I imagine it would be the head of our particular division.

Q. How many persons in the Federal Power Commission are there who occupy superior positions in the accounting department over you, exclusive of members of the Commission?

. . .

[9595] THE WITNESS: Are you referring merely to the accounting division that I happen to be in?

MR. KING: The accounting department of the Federal Power Commission.

THE WITNESS: The accounting department is divided into several divisions.

By MR. KING:

Q. How many divisions? A. There is a division of original cost.

Q. Is that your division? A. No, that is not.

Q. What is the next one? A. There is a division which takes care of rate cases and general accounting matters.

Q. Is that your division? A. Yes.

Q. All right. Will you confine my question to your [9596] division? A. I never have made a determination of the number of persons who had superior rank to me.

Q. You said Mr. Dunn did. Is that correct? A. Yes.

Q. Is there anybody else who has superior authority in your division? A. Yes.

Q. Who is it? A. Mr. Baker is the head of the division.

Q. Who else? A. By your question now do you mean persons who had authority to direct my work?

Q. Correct. A. Or change my conclusions?

Q. Correct. A. Mr. Smith, of course, was head of the Bureau of Accounts and Rates. He could do that.

Q. Is there anybody over you who has power to change your determinations or conclusions other than Mr. Smith, Mr. Baker and Mr. Dunn? A. There would be no others on this case.

Q. Did the gentlemen to whom you have referred reverse any of your determinations or conclusions in connection with this investigation? [9597] A. Not that I recall. We had discussions of problems, but there was no reversal of conclusions.

Q. Were those discussions before you reached your conclusions in Exhibit 51? A. Yes, that is right.

Q. You can not remember whether your conclusions were changed as a result of those discussions or not. Is that correct? A. No, they were just general discussions of the problem.

Q. Then your conclusions were not changed as a result of those discussions, is that correct? A. No, because I had not reached conclusions.

Q. Did you have any discussions after you had reached your determinations and conclusions in Exhibit 51 with the gentlemen you have just mentioned? A. I had no discussions which would be reflected in changing the conclusions I had reached. We may have discussed those things over again.

Q. Did the discussions which you had with Mr. Dunn, Mr. Baker and Mr. Smith prior to the completion of Exhibit 51 have any effect upon the preparation of the Exhibit? A. They may have, but I don't recall now.

Q. Can you give us an example of the type of discussions you had with those gentlemen? [9598] A. Well,

we discussed the determination of interest during construction, for instance.

Q. Anything else? A. We discussed the allowance of items claimed by the company from depreciation reserves or operating and maintenance in a general way.

Q. Anything else? A. We discussed the history of the development, that is, the transfer of properties to McCall Ferry Power Company and the issuance of stock, Aldred's activities, the reorganization of Pennsylvania Water and Power Company, and things of that sort.

Q. When you refer to the history of the company, do you refer to the material contained in Exhibits 26 and 27 in this case? A. No, we didn't discuss the companies exhibits as such. We discussed the facts relating to the history.

. . .

Q. Mr. Newlands, Mr. Baker and Mr. Smith, to whom you referred, are both accountants, is that right? [9599] A. That is right. Mr. Smith is also a lawyer, I believe.

Q. How did these discussions you had with Mr. Dunn, Mr. Smith and Mr. Baker originate? A. Well, Mr. Dunn made various visits over to Baltimore and at times stayed there to see how the work was progressing. At that time I would discuss matters with him.

Mr. Baker and Mr. Smith came over only occasionally, perhaps two or three times, and then it was merely a discussion of how the work was progressing, some of the main problems, and so forth.

Q. So that all of the discussions with these gentlemen occurred in Baltimore. Is that correct? A. That is correct.

Q. From what you have said is it a correct statement that you originated the discussions? A. Do you mean who spoke first?

Q. That is one test of who originated them. A. It was a matter of merely sitting around a table and discussing matters.

Q. Did you request—Excuse me. Go ahead. A. Mr. Smith or Mr. Dunn might have asked me to describe the history of the project or might have asked questions about certain parts of it. But there was no leader of the discussion. It was a general discussion.

[9600] Q. Did you request either one of the three gentlemen to come to Baltimore at any time? A. No. I made no definite request for them to come.

Q. How about Mr. Howell? Did he come to Baltimore? A. Yes.

Q. Did you have any discussions with him in Baltimore? A. Yes.

Q. Were any of the discussions which you had in Baltimore with Messrs. Smith, Baker and Dunn reflected finally in Exhibit 51 when it was prepared? A. The discussions as such are not reflected, no.

Q. Is the effect of the discussions reflected in Exhibit 51? A. They may have been. Just what effect they had I would not be able to recall at this time.

Q. Did any of those gentlemen direct you to put any particular determination or conclusion in Exhibit 51? A. No.

Q. Did you ask any of the three gentlemen whether you could put any of your conclusions or recommendations or determinations in Exhibit 51? A. No, it would be generally understood that my conclusions would be reflected in Exhibit 51. That is an understood matter, and they would reflect the results of my discussions with any other person. [9601] Q. But you assume full responsibility for those decisions, determinations and conclusions. Is that correct? A. That is right.

Q. Did you include any conclusions or determinations or recommendations in Exhibit 51 at their direction? A. No.

Q. Did they object to any of the conclusions or recommendations that you did include in Exhibit 51? A. No. I am afraid if they had objected they probably wouldn't have appeared there.

Q. Does that mean that they had full authority to review and reverse your decisions, conclusions and recommendations? A. That is right.

Q. But as I understand you, they did not reverse any of your conclusions and recommendations? A. That is right.

Q. Then the reason why you can assume full responsibility for Exhibit 51 is because they did not reverse any of your decisions. Is that correct? A. No, I would assume full responsibility in any case.

Q. Even though you did not agree with what they directed you to do? A. In that case it would still be my responsibility.

[9602] Q. To defend it? A. That is right.

Q. Whether you agreed with it or not? A. Of course, we are talking about a hypothetical instance now, but I assume that would be so, yes.

Q. Now, Mr. Newlands, if it were demonstrated to you satisfactorily that you had made an error, either in fact or in connection with your conclusions, recommendations and determinations in Exhibit 51, are you in a position now to admit the error, or do you first have to obtain authority from somebody else to do so? A. I could admit if there were any errors in Exhibit 51 that such was the case.

Q. Are you free to change your mind in connection with any of the determinations and conclusions in Exhibit 51 if you deem it proper to do so without consultation or authority from anybody else? A. If that were based on facts which would change my conclusions I would be free to change my mind.

Q. All of your conclusions and recommendations are based on facts, aren't they? A. That is right.

Q. Let us suppose you were convinced you drew erroneous conclusions from the facts. Are you free to change your mind without obtaining authority from anybody? [9603] A. Yes, I believe so.

Q. I notice, Mr. Newlands, that Exhibit 51 is signed by you and Mr. Edward L. Dunn. Will you please indicate the scope and limitations of Mr. Dunn's responsibility in connection with Exhibit 51? A. Mr. Dunn was the supervising accountant on the job and he had general power to direct me if he wished, he had general power to review the work I was doing and the conclusions I was drawing.

Q. Did he exercise any of those powers? A. I believe you will have to ask him that question.

Q. Don't you know? A. I don't know what goes on in Mr. Dunn's mind, no.

Q. You can judge what goes on by his actions, can't you? A. Not necessarily.

TRIAL EXAMINER: Don't argue about this now.

By MR. KING:

Q. Why did Mr. Dunn sign the report, do you know? A. Because he had general supervision over the work I was doing.

Q. Did he personally review any of the facts or conclusions developed by you? A. Yes, we discussed a great many of the facts and conclusions that are now in Exhibit 51.

[19604] Q. Why didn't the accountants whom you have heretofore named who worked under your direction sign Exhibit 51? A. Because they had almost no responsibility except to obtain the figures for me.

Q. Then as I understand it, the main reason Mr. Dunn signed the exhibit is because he has direct supervision over you. Is that correct? A. That is right.

[19610] Q. Mr. Newlands, did you personally dictate the contents of Exhibit 51 in its present form? A. That is right.

Q. I assume, of course, you had with you from time to time while dictating those contents either some or all of

the accountants who assisted you. Is that right? A. They were present while I was writing Exhibit 51.

[9612] By MR. KING:

Q. You also went to the files, didn't you, or your assistants did? A. That is right; we requested them from the company.

Q. Your assistants had to exercise judgment, did they not, as to what documents they thought necessary to get from the files? A. Usually my directions were explicit enough so that [9613] the documents which they were to secure would be known to any accountant.

Q. Is that true as to correspondence? A. Are you talking about the fifteen filing cases now specifically?

Q. Yes. A. I directed the examination of those files myself. No one did anything on them unless I told them exactly what to do.

Q. Then do I understand you to mean that you personally know all of the documents that were taken out of those fifteen filing cases? A. You mean all of the documents which were examined in the fifteen filing cases?

Q. Correct. A. Do you mean by that did I personally examine all of the documents which we requested from the fifteen filing cases?

Q. That is one thing I am inquiring about. A. No, I examined most of them but not all of them.

Q. I thought you said you were present when all the documents were taken from those filing cases. A. That is right. I always determined which files were to be secured. I determined then which ones I was to examine personally, which was most of them. I turned over a very few files to my assistants to look through where I thought there. [9614] was nothing of any importance in them.

Q. How did you know which portion of those files was material unless you examined them all? A. Because they were classified, all of that correspondence was classified under various headings and subjects.

Q. And you could tell by looking at the heading of the subject whether the material in those files was material enough in your judgment? A. Yes, in most cases. In some cases I might have to look through a little bit to determine the exact nature of the files.

Q. But in some cases you didn't have to do that. Is that correct? A. Well, I believe in every case, as a measure of protection, I did take a look at what was contained in the file to make certain there was nothing important.

Q. What do you mean "a measure of protection"? A. To determine that the file was unimportant or contained unimportant material.

Q. Did you do that in every instance? A. That is right.

Q. Did you read all of the correspondence on the film upon which the company recorded correspondence? A. No, I did not read the full film.

Q. Did you read any of them? [9615] A. Yes.

Q. How did you know what you did not read was material or not if you didn't read it? A. The company extracted various letters from that film which they considered important, so that I saw a great deal of the material on that film as carbon copies of correspondence.

Q. Then you looked only through what you thought the company thought was important. Is that right? A. Plus the portion of the film I saw myself.

Q. And you assumed that the portion you did not see the company did not think was important. Is that correct?

A. I didn't have to make any assumption in the matter. I considered that the documents I had secured were sufficient for my purpose.

Q. And you made that determination without looking at the balance of them. Is that correct? A. That is right.

Q. Do you consider that a sufficient study for your determination? A. I think it is.

By MR. KING:

[9616] Q. Could you tell what the correspondence files contained by reading the summaries, the card summaries?

A. That gave a general view of what was contained in the files, but as I understood it those index files were not complete, anyhow. But it did give a general bird's eye view of the material.

Q. A brief summary appeared on the card. A. Yes. As a matter of fact, those cards sometimes contained reference to the film, also.

Q. Could you give us some idea as to the number of files that you did not examine? A. No, I couldn't.

Q. Would you say you examined half of them?

. . .

THE WITNESS: Based on the index I would say I had examined half of them. But the company had no list of those files, although I requested repeatedly whether they had such a list in order for me to determine which files were available and which ones I wanted to inspect.

By MR. KING:

[9617] Q. All the files were available to you, weren't they?

A. They were available in the filing cabinets, but only as I requested the company for certain files. I had no list of them.

Q. You could have gone to the filing cases and ascertained what was there, could you not, or your assistants could have? A. It might have been possible to do that. They never offered to let me go through the fifteen filing cases.

Q. Did you ask to do it? A. No, I did not.

Q. They didn't say you couldn't, did they? A. No.

Q. Did they give any indication that they would object to your doing so? A. Not that I know of except that whenever we asked for information it was always secured by the company from the files. As a matter of fact, we were usually told it would take a certain time to get the

information. In some cases that meant several days, several weeks, or even several months.

. . .

[9628] Q. Mr. Newlands, was it necessary for you to seek or secure legal advice in connection with the preparation of your Exhibit 51? A. No.

Q. I believe you said Mr. Baker was a lawyer as well as an accountant? A. Mr. Smith.

Q. Mr. Smith—excuse me. A. Yes.

Q. Did you get any legal assistance from Mr. Smith? A. If he gave it to me he didn't call it legal assistance.

Q. You know the difference between legal assistance and accounting assistance, don't you? A. Not necessarily. There might be occasions where you could not draw a distinction, where the person receiving the knowledge or assistance might not know whether it was legal assistance or not.

Q. What would be an example of that? [9629] A. Regarding the period of cessation. I don't know whether any of our discussions regarding the period of cessation were such that Mr. Smith was using his legal knowledge or legal information or not. So far as I know he was using his accounting knowledge.

Q. Don't you know the difference between a legal determination of a so-called cessation period and any other kind of a determination, if there is any?

. . .

THE WITNESS: I think I might be able to tell you but I don't know what was in Mr. Smith's mind when he was talking to me. So far as I know he was talking from accounting considerations.

By MR. KING:

Q. What did Mr. Smith say to you in connection with the so-called cessation period? A. I can't recall his conversations so far back as that. As far as I know he didn't

give me any legal assistance. I am saying I don't know what was in his mind. He is a lawyer.

Q. If you can't remember what he told you how do you know what he told you related to accounting and not law? A. Because I can remember the general tenor of the discussion.

[9630] Q. What was it? A. What actually happened during the period.

Q. You mean you told him what happened or he told you? A. We discussed it.

[9631] Q. You told him what? A. I told him the history of the cessation period.

Q. What did you tell him? A. What work was going along, when it stopped, when it started up again, and so forth.

Q. What did he tell you? A. He agreed with me after discussing the items that that cessation period should be eliminated in the determination of the construction period.

* * *

[9632] Q. You are not an attorney, are you, Mr. Newlands? A. No, I am not.

Q. Then Exhibit 51 does not reflect any legal advice from any attorney. Is that correct? A. That is correct.

Q. Mr. Newlands, is the Ohio Fuel Gas Company investigation which you referred to in your direct testimony the only accounting investigation you have had complete charge of since your employment by the Federal Power Commission with the exception of this present case? A. Well, that would need qualification. In the Southern Carbon Case I had charge of the determination of original cost, although another man was supervising the whole job.

Q. Is that the only other one of which you had [9633] complete charge regarding original cost? A. Yes, I believe so.

* * *

Q. Mr. Newlands, is it your opinion as an accountant that the function of the art of accounting is to report facts? A. It records facts, but it also records the conclusion of the person who orders the recording. Its purpose is to record facts.

[9634] Q. Does an accountant have a right to change the facts? A. No, he doesn't.

[9640] Q. Do you think it is the function of an auditing [9641] accountant to modify the transactions he finds recorded?

THE WITNESS: It is the function of an examining auditor to examine the facts and determine how they should be handled according to correct accounting principles. If that involves modifying something on the books, that is making a statement different from what appears on the books, he should do that.

By MR. KING:

Q. Has he a right to modify the significance of those recorded transactions?

[9642] THE WITNESS: I don't see how anyone could modify the significance of something recorded. The significance remains the same whatever the examining auditor determines should be the proper accounting disposition of the items.

[9644] Q. Will you please turn to Schedule 1, page 1 of Exhibit 51? Do you have that schedule before you? A. Yes, I have.

Q. Does that schedule contain a consolidated balance sheet as of December 31, 1945, of Penn Water and Power Company? [9645] A. That is right. It does not include

a couple of small inactive subsidiaries, which would make no difference in the general picture.

Q. Page 1 of that schedule lists the assets and other debits of Penn Water and Power Company. Is that correct? A. That is right.

Q. The first group of assets is entitled "Electric Plant." Is that correct? A. Yes.

Q. Now, Mr. Newlands, does the listing of items of Electric Plant indicate to you that the company owns that property? A. Yes, that would usually be the case.

[9647] Q. Mr. Newlands, who determines the question of whether Penn Water owns the items listed under electric plant on page 1 of the schedule of Exhibit 51?

THE WITNESS: So far as I know it is a legal matter to determine whether Penn Water owns it or not.

By MR. KING:

Q. And not an accounting matter? A. So far as strict legal ownership is concerned that is true.

Q. Mr. Newlands, did you make an inventory of the property listed under electric plant on page 1 of the schedules [9648] in Exhibit 51 at the time you were making your investigation? A. No, I did not. I understand the company made an inventory.

Q. You did not? A. That is right.

Q. Did any of your assistants? A. No.

Q. Excuse me. Strike that question, please.

The next item appearing on page 1 of the schedule we are discussing is entitled "Investment and Fund Account." Is that right? A. That is right.

Q. Who determines the ownership of the items there listed? A. My answer to that would be the same as to the previous classification.

Q. The next listing on the page we are discussing is entitled "Current and Accrued Assets." Is that correct? A. That is right.

Q. Would your answer be the same as to the items listed under that heading? [9649] A. Yes.

Q. Mr. Newlands, the next listed item is entitled "Deferred Debits." Is that right? A. That is right.

Q. Would your answer be the same as to those items? A. Yes, so far as it is applicable. Some of those are merely delayed expenses.

Q. Turn to the next page, Mr. Newlands, page 2 of the schedule of Exhibit 51. That page lists liabilities and other credits of the Penn Water and Power Company as of December 1, 1945. Is that correct? A. That is correct.

Q. The first item on that page in the left-hand side is entitled "Capital Stock." Is that right? A. That is right.

Q. What do you mean by common stock listed under Capital Stock? A. That is the name which appeared on the certificate, I believe, and the name which appeared on the charter.

Q. Who determines the rights of common stockholders?

[9650] THE WITNESS: You would have to obtain legal advice because the rights would be determined by the law of the land.

By MR. KING:

[9651] Q. That is the same as to the preferred stockholders, is it not? A. That is right.

Q. The next item on page 2 of the schedule is entitled "Long Term Debt." Is that right? A. That is right.

Q. That includes mortgage bonds, isn't that correct? A. That is right.

Q. What is your understanding of the term "Mortgage Bond"? A. That generally means that the bonds have a lien on the assets of the company or certain property of the company.

Q. Rights of bondholders is determined by law, isn't that right? A. That is right, ultimate rights would have to be determined legally.

Q. In connection with the next to the last item, "Reserves," what do you understand to be the meaning of reserve for depreciation of electric plant?

THE WITNESS: It is an account set up on the books to [9652] measure as nearly as possible the expired service life of the company's property.

By MR. KING:

Q. Who determines what use the company may make of this reserve? A. I don't understand what you mean by that question.

Q. What don't you understand about the question? A. The reserve account is a nominal account on the books. There is no specific asset back of it, so I don't know what you mean by your question, who determines what should be done with it. There are no assets involved to do anything with.

Q. Is the company subject to any control in connection with that item by anybody?

[9654] Q. Is the company subject to any control in connection with that item by anybody?"

TRIAL EXAMINER: Objection is overruled.

THE WITNESS: Regulatory authorities in the case of public utilities have the authority to prescribe how depreciation reserves should be set up.

By MR. KING:

Q. And the regulatory authorities are limited by the law creating them, isn't that correct?

THE WITNESS: I don't know what the answer is from a legal standpoint, but from an accounting standpoint I would say that would seem to be a reasonable answer.

By MR. KING:

Q. I want it only from an accounting standpoint, Mr. Newlands.

Now, Mr. Newlands, is it a fair statement that the right, title, interest, or obligations of Penn Water and Power Company in connection with every item we have discussed on pages 1 and 2 of the schedules of Exhibit 51 are determined by law?

. . .

[9656] THE WITNESS: The rights, title and interest of a company in its property, the rights, title and interest of the common stockholders and bondholders, are determined as a matter of law.

By MR. KING:

Q. And that includes obligations, too, does it not, Mr. Newlands? A. That would include the right, title and interest of the company as opposed to the right, title and interest of the creditor, that is right.

. . .

[9657] By MR. KING:

Q. Have you had any experience in connection with financial matters, Mr. Newlands, in addition to accounting?

A. I have worked on audits of financial firms, but that is the extent of my financial background.

Q. You do not consider yourself an expert in connection [9658] with financial matters? A. That is right.

Q. Other than in the situation you have just described. A. That is right.

Q. Have you ever testified in any court or administrative tribunal as an expert on financial matters? A. No, I have not.

Q. Have you ever testified in any administrative tribunal or court proceeding as an expert in connection with valuing stock of corporations, either preferred or common?

A. No, I have not.

Q. Do you consider yourself individually or as an accountant an expert in connection with valuing corporate stock? A. No, I do not.

Q. Have you ever testified in any court or administrative proceeding in connection with valuing land? A. No.

Q. Do you consider yourself as an individual or as an accountant an expert in connection with land values? A. No.

Q. Have you ever testified in any administrative tribunal or court in connection with engineering matters? A. No.

Q. Do you consider yourself individually or as an [9659] accountant an expert in engineering? A. I do not consider myself an expert in engineering.

Q. I direct your attention to column 4, Mr. Newlands, Schedule 3, Sheet 1 of Exhibit 51. A. Column 4, Schedule 3, what sheet number?

Q. Sheet 1. I believe that is page 7 of the table. Do you have it in front of you? A. Yes.

Q. Will you identify in column 4 of page 7, the amount opposite 301, Franchises and Consents of \$64,004.61? A. That is the amount the company classified as the cost of the fishways.

Q. Did you eliminate this item from the company's electric plant in service reclassified? A. No, I transferred it to Account 322, Reservoir, Dams, and Waterways.

Q. Who made the determination to transfer this item? A. I did.

Q. Did you have any assistance in connection with arriving at your conclusion and determination? A. No.

Q. That is to transfer this item? A. No, the conclusion was my own.

Q. Mr. Newlands, I show you photostatic copy of document entitled "Memorandum for Mr. Edgar C. Coffman, Chief [9660] Division of Rates and Certificates." It is dated September 10, 1945. This document is a photostat of working papers of the Staff. I ask you to examine it.

MR. GOLDBERG: Whose working papers?

THE WITNESS: This is all one document?

By MR. KING:

Q. Yes. Have you ever seen this before? It is signed by Mr. Roland and Mr. Howell. A. I have never seen the document.

MR. GOLDBERG: Whose working papers did you say?

MR. KING: Signed by Mr. Roland and Mr. Howell. I assume it came from the working papers of either one or both of those gentlemen.

MR. GOLDBERG: All right.

MR. KING: I think probably Mr. Roland.

• • •

[9661] Q. I show you page 5 of this document and refer you to the first full paragraph on that page which states, "When the hydraulic testing laboratory was built prior to the beginning of Safe Harbor plant, the use of the original ice chutes and the original fishway located on the Lancaster side was abandoned. A new fishway on the York side was built and is in operation though indifferently so. Oddly enough the company's books reflect the cost of these fishways as intangible assets and represent the cost of securing rights from public authority. Technically they are intangible and non-depreciable, but the accountants can be depended upon to apply a correct treatment of this item.

"The ice chutes were never replaced, but the opening beyond Number 10 intake and the log chute at the skimmerwall seemed to prove adequate."

MR. GOLDBERG: What is the question?

By MR. KING:

Q. I ask you to examine that paragraph, and state whether you are the accountant who could be depended upon to apply a correct treatment of this item?

• • •

[9663] THE WITNESS: I don't know. I have never seen this memorandum, never had any knowledge of it, and don't agree with the contents of a large part of the paragraphs you read.

MR. KING: May I have the last answer, please?

(Answer read.)

By MR. KING:

Q. In what respect do you disagree with the contents of that paragraph? A. Where they stated that the cost of the fishways represented an intangible item and was reflected as an intangible item on the books. It is not reflected as an intangible item on the books. It is reflected in the construction plant account. I don't believe that is an intangible item, which is a conclusion drawn by the writer of this letter.

MR. GOLDBERG: That is what always happens to an engineer's view of accounting matters.

May I see that document, Mr. King?

MR. KING: Certainly.

By MR. KING:

Q. Then as I understand it, Mr. Newlands, you disagree with Mr. Howell's and Mr. Roland's determination that the item [9664] is an intangible and non-depreciable one, is that right? A. I disagree with that statement which appears there if that is Mr. Roland's or Mr. Howell's determination. I don't know whether it is or not.

Q. Upon what do you base your conclusion in connection with your disagreement with the statement of those two gentlemen, namely, Mr. Roland and Mr. Howell? A. I base my conclusion on my knowledge of the facts.

Q. What are the facts? A. The facts are that the company built fishways, a tangible item, capitalized them in their construction accounts and in their plant accounts, and they remain to this day on the books in the construction plant accounts.

Q. But they have been reclassified into the intangible account, is that correct? A. In the company's proposed reclassification they have reclassified them as intangibles.

Q. Have you ever seen the fishways there? A. I believe I saw the Lancaster side on a visit to Holtwood.

Q. Did you see the other side? A. No, I never was on the other side of the river.

Q. Do you think you would recognize the fishway on the other side if you saw it? A. I have seen pictures of it. I believe I would.

. . .

[9665] Q. Did you consider in arriving at your determination, Mr. Newlands, Part 35 of Exhibit 27, which is the Court order of the case of Commonwealth of Pennsylvania v. McCall Ferry Power Company?

MR. GOLDBERG: What determination is that?

MR. KING: Determination we are discussing concerning the fishways, that it was tangible property.

THE WITNESS: Yes, I considered that because the company called it to my attention.

By MR. KING:

Q. Did you consider that before or after you arrived at your conclusions and determinations as to this item in Exhibit 51? A. Before.

Q. And arrived at your conclusions with knowledge of that order and the contents of that order?

. . .

[9666] Q. You have already testified, have you not, that you made all of the determinations in connection with Exhibit 51 and received detailed help only from the accountants who worked under your direction? A. That is right.

. . .

[9672] Q. Mr. Newlands, assume that there is an agreement between Safe Harbor Water Power Corporation and the Board of Fish Commissioners in the Commonwealth of Pennsylvania providing that Safe Harbor Water Power

Corporation shall pay the Board of Fish Commissioners of the Commonwealth of Pennsylvania \$4,000 a year in lieu of the construction of fishways. Would that fact have any bearing in your opinion in connection with your treatment of the item of fishways in Penn Water?

[9673] THE WITNESS: That hypothetical assumption will not change my determination.

[9674] By MR. KING:

Q. Before the completion of Exhibit 51, or since that date, did you have any information, either oral or written, which would indicate to you that Safe Harbor Water Power Corporation does pay the Board of Fish Commissioners of the Commonwealth of Pennsylvania \$4,000 annually in lieu of construction of fishways? A. Only what I have been told by the company.

Q. What were you told by the company? A. I was told that Safe Harbor was making a payment to the Pennsylvania Commission.

Q. When were you told that? A. Probably in the latter part of 1945.

Q. Is that before or after you completed Exhibit 51? A. That was before the completion of Exhibit 51.

Q. Mr. Newlands, assume Penn Water had not constructed [9675] the fishways but was making, in lieu thereof, an annual payment to the Board of Fish Commissioners of the Commonwealth of Pennsylvania. Should that payment be treated as an operating expense? A. I think it should be.

Q. Mr. Newlands, I show you a document entitled "Agreement Between the Susquehanna Power Company, Philadelphia Electric Power Company, and the Conservation Department of Maryland, Board of Public Works of the State of Maryland, and Board of Fish Commissioners of the Commonwealth of Pennsylvania for Fish Stocking at Conowingo Pool," dated August 1, 1929.

I ask you to examine that and tell me whether you have ever seen that agreement or a copy of it before. A. No, I have never seen this agreement.

[9676] Q. Did anyone tell you—any representative of the company—that the so-called Conowingo Company paid \$8,000 a year annually to the Board of Fish Commissioners of the Commonwealth of Pennsylvania and the Conservation Department of Maryland in lieu of the construction of fishways at Conowingo Dam? A. No one told me the exact amount of the payment being made. I have a recollection that at the time I was told of the Safe Harbor payment it was mentioned that Conowingo made a similar payment.

Q. Were you told that those payments were treated as operating expenses by those two companies, namely, Safe Harbor and the so-called Conowingo Company? A. No, I don't believe I was.

[9677] Q. Now, Mr. Newlands, if you knew about the existence of the payments made by Safe Harbor and the Conowingo Company to the representatives of the State of Pennsylvania and Maryland, why didn't you ascertain the facts concerning those payments before you completed your Exhibit 51 and made your determinations as to fishways? A. Because in my opinion the payment of those amounts had no bearing on the determination of whether the fishways should be classified as an intangible or as tangible property.

Q. So then you did take the facts as to the existence of these payments into account in your determination as to fishways in Exhibit 51? A. That is right.

[9680] Q. Will you refer to page 60 of the Schedules in Exhibit 51, Mr. Newlands? A. Yes, sir.

Q. Do you have that page before you? A. Yes, I have.

Q. Do you not state there, Mr. Newlands, that the expenses listed on that page were all incurred by Pennsylvania Water and Power Company in connection with the negotiation of a contract with the Conowingo Company covering annual compensation to be paid Penn Water for loss of energy output and demand value due to the erection of a dam at Conowingo? A. That is right.

Q. Did you have any expert assistance, legal or otherwise, in connection with your making the determination or statement I have just referred to on page 60 of Exhibit 51?

A. No, that is my own statement.

Q. In making that statement, Mr. Newlands, did you know as a matter of fact—strike that, please.

In making that statement, Mr. Newlands, did you take into consideration the bill of complaint filed by Pennsylvania Water and Power Company against Susquehanna Power Company in the U. S. Court for the District of Maryland, the answer of the Susquehanna Power Company in that same proceeding, the petition of the parties to the Court in that proceeding requesting ratification of an agreement of settlement, and [9681] the agreement of February 20, 1926 between the parties, also filed in the proceeding in the District Court?

. . .

THE WITNESS: Is the agreement of February 20, 1926, the one which settled the controversy? Is that the final agreement determining the amount of the backwater payments?

By MR. KING:

Q. I think you may characterize it that way. A. I have read that agreement. I have not read the other items you mentioned. Of course I secured information from the company as to what these expenses were and what they were for.

Q. From whom did you secure that information? A. From Mr. Wetzel.

Q. Did you know, Mr. Newlands, prior to completing Exhibit 51, of the existence of the suit that I have just referred to in the District Court for the District of Maryland? A. Yes. The agreement which settled the controversy refers to the suit.

Q. Despite that fact you did not make any investigation in connection with that suit. Is that correct? A. I did not read the suit itself or the briefs filed. I did ask Mr. Wetzel for further information concerning the controversy.

. . .

[9682] Q. Mr. Newlands, did you take legal advice in connection with your decision that it was unnecessary to examine the documents which I have heretofore referred to in the suit in the District Court for the District of Maryland? A. No, I did not.

Q. You determined individually that that was not necessary. Is that correct? A. I determined that from the facts I had studied, the information which had been given me by the company and the agreement I read that I had the facts necessary to make the determination I did.

Q. And you came to that determination without looking at any of the documents in that suit except the agreement you just mentioned. A. That is right.

Q. Mr. Newlands, I show you certified copy of the petition of the Pennsylvania Water and Power Company against [9683] the Susquehanna Power Company in equity filed in the U. S. District Court in the District of Maryland. I ask you whether you have ever seen that document or a copy of it before? A. No, I have not seen this document before.

. . .

Q. Mr. Newlands, I show you certified copy of the answer of the Susquehanna Power Company to the petitioner bill of complaint identified as Exhibit 232, filed in the District Court of the U. S. for the District of Maryland in equity and ask you if you have ever seen that document, or a copy of it? A. No, I have not seen it.

[9684] By MR. KING:

Q. Mr. Newlands, I show you certified copy of a document entitled "In the United States District Court for the District of Maryland, Pennsylvania Water and Power Company vs. Susquehanna Power Company in equity," which is a petition of the Pennsylvania Water and Power Company and the Susquehanna Power Company for Court approval of settlement of the litigation, and ask you if you have ever seen that document or a copy of it any place?
A. No, I have not.

* * *

[9685] By MR. KING:

Q. Mr. Newlands, I show you a document entitled, "In the United States District Court for the District of Maryland, Pennsylvania Water and Power Company vs. Susquehanna Power Company, in equity," and entitled also "Exhibit Agreement."

This document has been certified and referred to the District Court. I ask you if you have ever seen that document or a copy of it at any time before? A. Yes, I have seen that.

* * *

By MR. KING:

Q. Mr. Newlands, what did Mr. Wetzel tell you in connection with the suit in the District Court for the District of [9686] Maryland? A. He told me that a suit had been instituted to determine the rights of the respective parties.

Q. To what? A. As regards the riparian rights existing below the tailrace of Penn Water and as to the right of the Conowingo Companies to build a dam at Conowingo which would flow back over Penn Water's tailrace.

He also told me the nature of the charges made to the lower development account on the books, Job C-283-8, and the nature of the engineers' services charged thereto.

* * *

[9638] By MR. KING:

Q. Will you turn to page 38 of Exhibit 51, Mr. Newlands? A. That is the text?

Q. Of the text, yes.

Who determined the so-called suspension period referred to by you on page 38 of Exhibit 51 which you recommend be eliminated from the construction period? A. I did.

[9689] Q. What facts did you take into consideration in connection with making that determination? A. The actual facts of what occurred during that period.

Q. Did anybody else in the Staff furnish you any help in connection with the determination of that question? A. They—

Q. Namely, the period of cessation. A. Other members of the Staff assisting me secured information which I could use in determining the period of cessation.

Q. To whom are you referring when you say "Other members of the Staff"—the accountants whom you directed? A. The accountants working for me.

Q. Did you receive any assistance in making your determination in connection with this matter that we are directing our attention to from Mr. Howell? A. No.

Q. Did you secure any assistance from any of the engineers on the Commission Staff? A. No.

Q. Mr. Newlands, I now refer you to that portion of page 38 of Exhibit 51, which reads as follows:

"Interest during construction is an allowable addition to plant cost only during the period which contributes to the [9690] completion of the project through unretarded construction activity."

Is that your definition? A. That is my statement.

Q. Did you have any help in formulating that statement or definition? A. No, that is my own statement.

Q. What is your standard in determining whether or not there is unretarded construction activity? Is it the

number of men, the amount of concrete poured, the amount of excavation, the dollars spent, or what? A. All of the activities must be taken into consideration. You cannot exclude any.

Q. Did you take all of the activities into consideration? A. I did so far as I knew them.

Q. Have you ever applied your definition or statement to which I just referred in any other case? A. No, I have not.

. . .

[9691] Q. Is this the first time you ever considered that definition or statement, Mr. Newlands? A. No, it is not the first time I have considered it. It is the first time I have written one out and put it in a report.

Q. What was the occasion of your prior consideration of that statement or definition? A. Reading other decisions of the Commission.

Q. Can you give me the names of any of the decisions where you got this statement or definition? A. No, I cannot.

. . .

By MR. KING:

Q. So that as I understand it, Mr. Newlands, you considered all of the facts that you could find of an engineering nature as well as any other kind in arriving at your definition. A. That is right.

Q. You are not a graduate engineer, are you, Mr. Newlands? A. No, I am not.

[9692] Q. Have you ever had any engineer experience? A. No, I have not.

Q. Why did you conclude that it was unnecessary for you to take engineering advice in that connection? A. Because the matter was so obvious. It was not necessary to have engineering advice.

Q. What do you mean by "so obvious"? A. I mean that nobody could reasonably determine that the construc-

tion period continued after November 1, 1907, in the face of the facts as we know them.

Q. Did you make a study in that connection to determine the amount and scope of work done during your so-called period of suspension or cessation?

* * *

THE WITNESS: Yes, I examined all the information that was available, or which the company turned over to us regarding the activity during that period. As a matter of fact, I requested Mr. Chase to furnish us with a list of the work done during that period.

By MR. KING:

Q. Did he do so? A. He said he didn't have any.

Q. Mr. Newlands, will you give us the duration of your so-called period of cessation? [9693] A. It extends from November 1, 1907, to September 1, 1909.

Q. By unretarded construction activity do you mean that in your opinion no construction went on during that period? A. No, that is not so and that is not what I said.

Q. Then you ascertained that some construction work did go on during that period? A. That is right.

Q. Did that construction work in your opinion contribute to the completion of the project? A. It contributed to the completion of the project, but it did not decrease the length of time necessary to complete the project when it was finally reopened.

Q. Did you make a study to determine how that activity could have fitted in with the other work? A. I know that the activity was fitted in with the other work during 1906 and 1907, and I know that it was planned that it would be fitted in with the other work during November and December, 1907, if the work hadn't stopped.

Q. Do you know, Mr. Newlands, how much concrete was poured between November, 1907 and September, 1909 on the skimmer wall connecting bulkhead and powerhouse